



## CITY OF PORTLAND, OREGON



### Bureau of Police

Ted Wheeler, Mayor

Michael W. Marshman, Chief of Police

1111 S.W. 2nd Avenue • Portland, OR 97204 • Phone: 503-823-0000

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### **Bureau Update Regarding the Status of Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures**

*At the direction of the Police Commissioner and in accordance with the City Council substitute Ordinance No. 892, approved on August 9, 2017, the Bureau will not enact its proposed DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, which was previously scheduled for enactment on August 19, 2017.*

*The Bureau has withdrawn the proposed policy and removed all references to the policy from the attached portfolio. The remaining policies in the “force suite,” Directives 900.00, General Reporting Guidelines; 1010.00, Use of Force; 1020.00, Weapons Administration; and 1021.00, Weapons Qualification will go into effect, as scheduled, on August 19, 2017.*

*\*Modified on August 10, 2017*



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## **Force Suite: Directives 900.00, General Reporting Guidelines; 1010.00, Use of Force; ~~1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures~~; 1020.00, Weapons Administration; and 1021.00, Weapons Qualifications** **Executive Summary**

### Introduction

In 2011, the Department of Justice (DOJ) launched an investigation of the Portland Police Bureau to determine whether members of the Bureau “engage in a pattern or practice of using excessive force, with a particular focus on the use of force against people with mental illness or in mental health crisis.” The DOJ concluded that most uses of force that they reviewed were constitutional, though they found “reasonable cause to believe that the PPB engages in a pattern or practice of unnecessary or unreasonable force during interactions with people who have or are perceived to have mental illness.” As a result, the Bureau is in the process of completing an overhaul of its directives pertaining to crisis intervention, force and force reporting, member accountability and training. The following summary describes the steps the Bureau has taken to revise its force-related directives.

### Review Timeline and Process

The policy team began work on revising Directive 1010.00, Use of Force, in September 2016. At that time, the directive had been posted for universal review and public comment within the previous year (November 2015), and there were no intentions to consolidate or reconstruct any of the force-related policies. As the team continued to update the policy, it became apparent that the revised draft included somewhat superficial language regarding force reporting and investigation requirements, as well as the approved use of specific less-lethal weapons. There are several directives that address these issues so, as currently enacted, a member would have to seek out each individual directive for guidance. In an attempt to avoid redundancy, combining the relevant directives into one policy emerged as the optimal approach to more thoroughly instruct member behavior. After formal discussions with the DOJ in October and December 2016, the Bureau officially moved toward restructuring the policy to incorporate all force-related issues—the use of force, the authorized and restricted uses of Bureau-issued weapons, force reporting and force investigations—into one policy for ease of reference and efficiency.

Over the course of the Bureau’s review of Directive 1010.00, the City, the DOJ and the Multnomah County District Attorney’s Office (DA) continued ongoing discussions regarding the use of deadly force and in-custody deaths, as the reporting requirements and investigation procedures for those incidents differ from non-deadly force incidents. Pursuant to Oregon state law, the DA is responsible for the investigation of all deaths, including officer-involved shootings and in-custody deaths.

Accordingly, the Bureau must consult with the DA ~~for direction~~ as it pertains to the investigation of all in-custody deaths and deadly force incidents that result in death.



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The Bureau continued to work on the suite of force policies in conjunction with the DOJ through its June 2017 conference with the DOJ, at which point we received the DOJ's tentative approval on each directive.

### Directive Reorganization

The revised directives draw a clear distinction between force and non-force-related matters, and to do so in a manner that is coherent and comprehensible to members. The following changes have been made:

- Directive 900.00, General Reporting Guidelines: This directive serves as the source for guidance regarding the broad reporting requirements for all police action. The policy incorporates the contents of and replaces Directives 910.00, Field Reporting Handbook; 920.00, Reports, Review and Deficiency; 930.00, Notebooks, Duty; and 950.00, Confidential Case Status.
- Directive 905.00, Non-Force After Action Reporting: This directive serves as the source for guidance regarding After Action reporting for incidents where no force is used. All supervisory reporting requirements for force incidents are set forth in the updated Directive 1010.00, Use of Force. Previously, Directive 940.00, After Action Reports, provided instruction to supervisors for the investigation and/or review of all police action. The Bureau has added clarity to the process by establishing separate policies that distinguish between supervisory requirements for force and non-force police action.
- Directive 1010.00, Use of Force: This directive serves as the all-encompassing source for guidance regarding the use of force, reporting force and the supervisor review of a force incident. The policy folds in applicable elements of Directives 940.00, After Action Reports; 1020.00, Firearms; 1030.00, Baton Use; 1040.00, Aerosol Restraints; 1050.00, Less Lethal Weapons and Munitions; and 1051.00, Electronic Control Weapon System. Directive 1020.00, Firearms, has been repurposed (retitled "Weapons Administration") to address the administrative aspects of Bureau-issued weapons (e.g., approved weapons, cleaning and storage requirements, etc.), and the Bureau has created Directive 1021.00, Weapons Qualifications, to provide clear guidance on qualification requirements for each weapon system. The aforementioned current directives will be rescinded upon enactment of the updated Directive 1010.00, Use of Force.
- ~~Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures: The Bureau updated the policy to reflect the recommendation of the DA regarding compelled statements. The Bureau also retitled the policy (formerly "Post-Deadly Force Procedures").~~

### Public Comments



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Over the course of the universal review and public comment periods, the Bureau received feedback on all of the force-related directives from several members, as well as a few community members and other stakeholders. The input that we received internally consisted largely of questions and comments of clarification. On the contrary, community input was primarily comprised of recommendations for substantive changes and expressions of disagreement with the Bureau's operational approach to certain issues. The policy team identified several recurring themes across the comments that we received from community stakeholders. We received recommendations to modify a definition and to omit the use of the phrase "excited delirium." A commenter also suggested the use of a force continuum to direct member use of force, and several responders expressed concern about both the standard applied to justify a member's use of force, and deadly force reporting and review procedures.

### *Definitions*

When a legal standard or statutory (i.e., Oregon Revised Statutes [ORS]) definition exists, the Bureau will generally use the established definition for the term or phrase. There are also some terms that have been defined by the DOJ in the 2012 DOJ Settlement Agreement ("Settlement Agreement"). If no such guidelines exist, the Bureau typically refers to relevant case law and national or state standards to then generate a definition based on its findings.

We received a comment suggesting that we use a previous definition for "use of force" that included the words "physical or mechanical intervention." The term "use of force," along with many other terms and phrases included in the policy, is defined in the Settlement Agreement and, as a result, the language in the directive must be consistent with the definition as established in that legal document. The Bureau, in conjunction with the DOJ, conducted a rigorous review of all of the terms included in the policy, which culminated in the DOJ ultimately approving the proposed terminology.

### *Excited Delirium*

The Bureau acknowledges that there is no consensus in the medical profession regarding the use of the term "excited delirium." Given the lack of general agreement amongst experts in the field (e.g., the American Medical Association, the National Association of Medical Examiners, the American Psychiatric Association, etc.), the Bureau proposed language that mirrored the Community Oversight Advisory Board (COAB) recommendation #032416-3; however, the DOJ overrode the proposal, citing that "excited delirium" is a term of art in policing, and, therefore, recommended that the Bureau keep the term in its directive.

### *Force Continuum and the Legal Justification for the Use of Force*

The Bureau received a comment that suggested support for the use of a force continuum, a tool that has traditionally been used by police departments to offer guidance on when an officer could use a particular type of force based on the response of or type of resistance presented by a subject — essentially an "if, then" model.



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This mechanism is problematic in that it is a dated concept that is rigid, entirely one dimensional and it fails to account for the totality of the circumstances at the time of an incident. This approach offers no opportunity for the officer to assess the situation to determine if the subject is in mental health crisis or if the individual poses a threat to anyone other than themselves, etc. The Bureau maintains, and industry best practices and research support, that officers are able to make more informed decisions regarding the use of force under a system that allows the officer to evaluate these factors through the lens of the reasonableness standard.

The U.S. Supreme Court case, *Graham v. Connor*, established that an objective reasonableness standard should apply to an individual's claim of the use of excessive force in the course of a law enforcement official making an arrest, a stop or a seizure. The court further held that an officer's actions should be objectively reasonable in light of the totality of the circumstances confronting them at the time of the incident. When determining the reasonableness of using force, the Court held that officers should balance an individual's rights against the government's interest, taking into account "the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others and whether he [the suspect] is actively resisting arrest or attempting to evade arrest by flight." Although the consideration of reasonableness is not limited to these factors, they do form the core of the Court's holding. The Bureau has set forth in policy that members must not only adhere to this standard, but also bear in mind the other considerations outlined in the directive.

#### *Deadly Force Reporting and Review*

~~The prevailing concern of the public and external stakeholders is that the Bureau is not compelling an officer who is involved in a deadly force incident to provide an immediate statement or complete a timely report regarding the use of force.~~

~~After numerous discussions amongst the City, the Bureau and the DA's Office, the DA has offered his legal opinion on the matter, specifically referencing the Oregon Supreme court case *State v. Soriano*. The DA has requested that the Bureau refrain from compelling a statement from an officer involved in a deadly incident until after the conclusion of the DA's criminal investigation, in an attempt to avoid conferring immunity from criminal prosecution ("transactional criminal immunity"). As a result of the meetings with all involved City and County parties and after careful consideration and interpretation of Oregon state law pertaining to death investigations, the Bureau has adhered to the advice of the DA and will not compel a statement from an involved member, nor will the member be required to complete a force report prior to the end of shift, as is the practice for force described in Categories II through IV of the updated Directive 1010.00, Use of Force.~~

~~Given the existing constraints regarding the Bureau's ability to compel a member to provide a statement and complete a force report (which includes a requirement for a narrative account of the incident—effectively a statement on the part of the officer), the Bureau has instructed the Professional Standards Division's (PSD) investigator to include all information gleaned from the administrative review, that would otherwise be included in a member's force report, in their (PSD's) report. Although~~



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~~the timing of the review is not ideal, the Bureau is confident that the utility of the information collected over the course of the administrative review and PSD's written report serve as an adequate alternative to the involved member's report.~~

### *Corrections*

~~An astute responder noted an inadvertent discrepancy in Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, in which the Bureau indicated in one section of the policy that the prior criminal history of an individual involved in a member's use of deadly force would not be released to the public, and subsequently stated that the individual's criminal record would be released. The reference to releasing that information has been removed from the revised directive.~~

The Bureau has also added language to the updated Directive 1010.00, Use of Force, regarding a member's duty to notify a supervisor of a complaint of injury and/or improper force.

We thank every individual who took the time to provide feedback on these directives. All comments received during the universal review and public comment periods are attached at the end of this document. We have removed all personal information to protect the privacy of commenters.

### Updated Suite of Policies

#### *Directive 1010.00, Use of Force*

Many of the Bureau's current weapons and force-related policies lack clarity and insufficiently direct member behavior. Furthermore, the policies do not adequately address the applicable requirements set forth in the 2012 DOJ Settlement Agreement. The updated directive (and supporting directives) incorporates and enhances all of the less-lethal weapon-related directives and also encompasses all force reporting requirements.

The Bureau believes that the consolidated force policy, Directive 1010.00, Use of Force, provides more comprehensive instruction to members regarding the authorized and restricted use of each weapon system. A few of the current individual policies for each weapon system are somewhat anemic and fail to provide clear instruction on the use of each weapon. The updated policy corrects this deficiency.

The revised directive is more effectively organized; emphasizes de-escalation; and, when the use of force is appropriate, provides clearer guidance to members from start (authorized use) to finish (reporting requirements) regarding force incidents. The Bureau has moved this directive in a direction that aligns with best practices and comports with terms of the Settlement Agreement.

#### *Directive 1010.10*

~~The updated directive more clearly delineates the roles of all individuals and entities involved in the review of a deadly force or in-custody death incident. Furthermore, the directive provides straightforward guidance to members having to navigate an arduous process. The newly structured directive leaves no ambiguity about reporting and investigation requirements, thereby emphasizing member and organizational accountability.~~



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### Conclusion

The Bureau worked closely with the DOJ and other City officials to recalibrate its suite of force-related policies. Additionally, the Bureau reviewed the policies of other jurisdictions (both departments who are or have been under DOJ investigation and those that are/have not), considered the recommendations of the COAB, and contemplated established national standards and best practices, as prescribed by the International Association of Chiefs of Police (IACP) and the Police Executive Research Forum (PERF). The revised policies reflect many of these best practice standards and stakeholder-generated recommendations and, consequently, provide clearer and more soundly-developed guidance and instruction to members.

The Bureau believes that the updated directives provide more clarity and enhanced guidance to its members; however, any suggestions to further improve these policies are welcome during their next review.

The following directives will become effective on August 19, 2017.

- Directive 900.00, General Reporting Guidelines
- Directive 905.00, Non-Force After Action Reporting
- Directive 1010.00, Use of Force
- ~~Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures~~
- Directive 1020.00, Weapons Administration
- Directive 1021.00, Weapons Qualifications

***\*Please Note: These directives will become effective August 19, 2017. All comments received are at the end of this document. Thank you for your time and feedback.***

## **900.00, General Reporting Guidelines**

### **Refer:**

- DIR 905.00, Non-Force After Action Reporting
- DIR 1010.00, Use of Force
- Request for Additional Information Form (Records)
- Detective Division Standard Operating Procedure (SOP) #3, Case Privatization
- ORS §192.000, Records; Public Reports and Meetings

### **Definitions:**

- **Police Action:** Any circumstance, on or off duty, in which a sworn member exercises or attempts to exercise police authority.
- **Significant Incident:** An event about which other members on subsequent shifts should be informed (e.g., Class A and B felony crimes with suspect information and potentially violent or dangerous situations).

### **Policy:**

1. This policy establishes the general reporting guidelines for all police action. For member reporting requirements pertaining to non-force after action reporting, members shall adhere to the guidelines set forth in Directive 905.00, Non-Force After Action Reports. For member reporting requirements pertaining to force after action reporting, members shall adhere to the guidelines set forth in Directive 1010.00, Use of Force.

### **Procedure:**

1. Member Reporting.
  - 1.1. Field Note-taking.
    - 1.1.1. Members should record pertinent information regarding calls in a Bureau-issued duty notebook or in the vehicle computer.
    - 1.1.2. All handwritten notebook entries shall be maintained for five years.
    - 1.1.3. Members shall promptly forward copies of handwritten notebook entries requested by the Records Division in response to public records requests made to the Bureau.
  - 1.2. Report Writing.
    - 1.2.1. Member Responsibilities.
      - 1.2.1.1. Members taking any official police action, on or off duty, shall write and submit an appropriate report to cover the incident, except in cases where the coded disposition sufficiently captures the resolution of the event.
        - 1.2.1.1.1. Members shall submit reports through the current Bureau-approved electronic platform.
      - 1.2.1.2. If on duty, the member shall write a report prior to going off shift, unless a holdover is approved or the member is incapacitated.
      - 1.2.1.3. If off duty, the member shall write a report as soon as practical after the event.
      - 1.2.1.4. Member reports must accurately and objectively depict the facts of each incident, the results of the member's investigation and any member action

taken. Reports shall include all exculpatory information and also contain reference to the disposition of any property or evidence taken into custody, the results of records searches, witness statements and/or any other pertinent information.

- 1.2.1.5. Members shall write reports that clearly, completely, concisely and accurately portray the incident being reported. Common, everyday language should be used and jargon and acronyms should be avoided. Exact quotes should be used when taking direct statements. When investigating a crime, members shall document all elements of the criminal offense.
  - 1.2.1.6. Members shall provide a complete chronological description of the details and results of the investigation.
  - 1.2.1.7. Required masks (e.g., Mental Health Mask, Stops Data Collection Report) must be fully and accurately completed as soon as practicable. These masks are subject to review by Bureau supervisors.
- 1.2.2. Supervisor Responsibilities.
- 1.2.2.1. Supervisors shall not approve holdovers for the following reports:
    - 1.2.2.1.1. Custodies that will be arraigned the next court day
    - 1.2.2.1.2. Missing persons
    - 1.2.2.1.3. Stolen vehicles
    - 1.2.2.1.4. Recovered vehicles
    - 1.2.2.1.5. Death investigations
    - 1.2.2.1.6. Significant incident
  - 1.2.2.2. Supervisors shall ensure that member reports comply with Bureau requirements and include the necessary content.

### 1.3. Photographs.

- 1.3.1. Members who photographically document crime scenes and injuries to victims/suspects shall do so in accordance with Directive 640.02, Photography and Digital Imaging.
- 1.3.2. Members who obtain photographs during their investigations shall document that fact and shall submit the photographs in accordance with Directive 660.10, Property and Evidence Procedure.

### 1.4. Case Management.

- 1.4.1. Members shall conduct appropriate case follow up.
- 1.4.2. Members shall ensure cases are closed or suspended when appropriate.

## 2. Report Review.

- 2.1. If the supervisor determines that a report is insufficient, the supervisor shall, if feasible, ensure that the member corrects the report before the end of shift. If the member is not able to complete the correction prior to the end of shift, the member shall complete the report as soon as possible upon their return to duty.
  - 2.1.1. When a member submits a deficient report, the supervisor shall discuss the error(s) with the member as soon as practicable.

2.2. The Records Division or an investigative unit/detail may initiate a request for additional information by submitting a request form to the Responsibility Unit (RU) Manager.

2.2.1. Members shall submit the completed supplemental form as soon as practicable.

2.3. Privatization of Reports.

2.3.1. When feasible, members should privatize only cases where the release of critical or sensitive information could jeopardize the investigation or the safety of an individual. Members should refer to the Detective Division SOP #3, Case Privatization for additional guidance.

2.3.2. Members must balance the decision to privatize cases and critical information against maintaining transparency within the Bureau case management system.

2.3.3. Members shall un-privatize cases as soon as practicable to facilitate internal case review and management.

2.3.4. Copies of privatized reports shall be released only for law enforcement purposes upon authorization of the investigator assigned to the case or of a supervisory sergeant in the investigative unit concerned. The assigned investigator must give the Records Division access to the report. The investigator shall authorize involved units or specific personnel to access their assigned privatized reports.

2.3.5. Members should be aware that the choice to privatize a document will not necessarily deem it confidential for purposes of public records requests and disclosure under Oregon law.

3. Public Records.

3.1. During the course of an open investigation, police-authored documents, whether privatized or not, may be privileged and need not be disclosed. After an investigation is completed, all documents, including those previously privatized, are presumed to be open to disclosure unless a legal exemption applies. Exemption applicability will be decided with the assistance of the City Attorney's Office.

3.2. Any person seeking access to a police-authored document at any time (except for law enforcement or prosecution partners) must file a request for same through the City of Portland web portal, and members are instructed to advise any person who requests police documents that they must submit a public records request through that channel.

**History:**

- Originating Directive Date: 07/21/17
  - Effective Date: 08/19/17
    - Rescind Directive 910.00, Field Reporting Handbook Instructions
    - Rescind Directive 920.00, Reports, Review and Deficiency
    - Rescind Directive 930.00, Notebooks, Duty
    - Rescind Directive 950.00, Confidential Case Status
- Next Review Date: 01/21/18

## **905.00, Non-Force After Action Reporting**

### **Refer:**

- DIR 315.30, Satisfactory Performance
- DIR 330.00, Internal Affairs, Compliant Intake and Processing
- DIR 333.00, Criminal Investigations of Police Bureau Employees
- DIR 345.00, Employee Information System
- DIR 630.05, Vehicle Pursuits
- DIR 635.10, Crowd Management/Crowd Control
- DIR 720.00, SERT and HNT Use
- DIR 740.00, Explosive Device Incidents and EDU
- DIR 1010.00, Use of Force
- After Action Form
- Operation Order Form

### **Definitions:**

- **Administrative Review:** A written determination that requires the gathering and evaluating of information to develop a course of action.
- **After Action Report:** A written report that describes a police action and assesses its adherence to policy through critique and evaluation using required criteria.

### **Policy:**

1. The Bureau is committed to promoting and preserving systems of transparency and accountability. When member action warrants administrative review, the Bureau is dedicated to reporting and investigating the event to determine if the member's action was in accordance with Bureau training and policy. This policy establishes the general reporting guidelines for all non-force events or incidents.

### **Procedure:**

#### **1. Non-Force After Action Reporting Requirements.**

- 1.1. Supervisors shall be required to complete an After Action Report for the following events:
  - 1.1.1. Member injury requiring treatment at a medical facility or requiring the member to end a shift prematurely.
  - 1.1.2. Injury to a suspect in custody, not sustained through member use of force.
  - 1.1.3. Police vehicle collision.
  - 1.1.4. Any incident or event for which an Incident Action Plan was written.
  - 1.1.5. Damage to or loss of city property.
  - 1.1.6. Any other non-force incident or event, as directed.
- 1.2. Supervisors shall follow the procedures set forth in Directive 1010.00, Use of Force, for all force-related after action reporting requirements.
- 1.3. Supervisors shall complete a non-force After Action Report following a vehicle pursuit without force implications. Supervisors shall refer to Directive 630.05, Vehicle Pursuits, for additional guidance. Supervisors shall follow the procedures set forth in Directive 630.05, Vehicle Pursuits and Directive 1010.00, Use of Force, for all pursuit-related after action reporting requirements.
- 1.4. Supervisors shall complete an After Action Report following a significant civil disturbance requiring an organized police response. Supervisors shall refer to Directive 635.10, Crowd Management/Crowd Control, for additional guidance. If force is used, the force After Action shall be incorporated as required by Directive 1010.00, Use of Force.

- 1.5. Supervisors shall complete an After Action Report following Special Emergency Reaction Team (SERT) and Crisis Negotiation Team (CNT) deployment for non-force events. Supervisors shall refer to Directive 720.00, SERT and HNT Use, for additional guidance. If force is used, the force After Action shall be incorporated as required by Directive 1010.00, Use of Force.
- 1.6. Supervisors shall complete an After Action Report following Explosives Disposal Unit (EDU) deployment. Supervisors shall refer to Directive 740.00, Explosive Device Incidents and EDU, for additional guidance.
- 1.7. Supervisors shall follow the procedures set forth in Directive 660.10, Property and Evidence Procedures, for after action reporting requirements pertaining to firearm and narcotics destruction.
- 1.8. After Action reports must meet the requirements of Directive 345.00, Employee Information System (EIS).

## **2. Non-Force After Action Report Format and Deadlines.**

- 2.1. Supervisors shall complete the non-force After Action form posted on the Portland Police Bureau (PPB) Intranet under the “after action” link. The overseeing Assistant Chief (AC) will forward copies to the Training Division and Internal Affairs, when there are training deficiencies or claims of misconduct implicated in the report and that cannot be resolved in the after action. The format shall not be changed or altered without permission of the Chief of Police. The report format shall include:
  - 2.1.1. Summary: The summary will be a short one or two paragraph narrative that describes the significant facts of the event.
  - 2.1.2. Personnel Costs (if applicable): These costs will be calculated using the following formula: The number of individuals participating per rank (use the highest rank) or category multiplied by the hourly wage for that rank or category multiplied by the total hours.
  - 2.1.3. Critique Findings and Recommendations: The critique findings and recommendations will contain a thorough analysis of the incident. It will address any applicable directives, whether or not members complied with such directives, and any recommendations made or actions taken to address issues.
  - 2.1.4. Supporting Documentation: The After Action Report shall include supplemental information related to the incident.
- 2.2. The Sergeant shall complete an After Action Report within seven days of the event. Exceptions to this requirement will be rare and must be approved by the Responsibility Unit (RU) Manager of the precinct, division or unit where the supervisor is assigned. This approval must be documented in the After Action Report.
- 2.3. The RU Manager shall complete a review and submit recommendations to the appropriate Assistant Chief within twenty-one days from the date of the event. Exceptions to this requirement must be approved by the appropriate Assistant Chief and the approval must be documented in the After Action Report.
- 2.4. The appropriate Assistant Chief, or designee, shall complete a review of the After Action Report within twenty-eight days from the event.

2.5. Upon approval by the Assistant Chief, all After Action Reports shall be uploaded to and stored in the appropriate recordkeeping system.

**3. Non-Force After Action Reporting Accountability.**

- 3.1. All supervisors in the chain of command shall be held accountable for inadequate reports and analysis. As a result, all supervisors shall be subject to corrective action or discipline for the accuracy and completeness of After Action Reports completed by other supervisors under their command. Corrective or disciplinary action may include training, demotion, and/or removal from a supervisory position, based on repeated deficient report reviews at any level of command.
- 3.2. Where member action indicates policy, training, tactical or equipment concerns, the immediate supervisor shall notify, through channels, the branch Assistant Chief, who shall ensure that concerns are addressed in a timely manner.
- 3.3. When, after investigation, member action is found to violate policy, the Bureau shall ensure that member misconduct is adequately addressed and, when appropriate, investigative findings and corrective action are taken fairly and expeditiously to resolve the issue.
- 3.4. The appropriate Assistant Chief, or designee, has the discretion to reassign an investigation to the Detective Division or any Bureau supervisor, thereby taking it out of the after action chain of command as described.
- 3.5. The Chief may delegate the authority to review, audit and authenticate After Action Report entries and ensure consistency across the Bureau.

**History:**

- Originating Directive Date: 07/21/17
  - Effective Date: 08/19/17
    - Rescind Directive 940.00, After Action Reports
- Next Review Date: 01/21/18

## **1010.00, Use of Force**

### **Refer:**

- Graham v. Connor, 490 U.S. 386 (1989)
- ORS § 161.015, General Definitions
- DIR 315.30, Satisfactory Performance
- DIR 330.00, Internal Affairs, Complaint Intake and Processing
- DIR 333.00, Criminal Investigations of Police Bureau Employees
- DIR 416.00, Post Officer Involved Deadly Force/Temporary Altered Duty
- DIR 630.45, Emergency Medical Custody Transports
- DIR 630.50, Emergency Medical Aid
- DIR 631.70, Investigation of Animal Problems
- DIR 635.10, Crowd Management/Crowd Control
- DIR 850.20, Mental Health Crisis Response
- DIR 900.00, General Reporting Guidelines
- DIR 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures
- DIR 1020.00, Weapons Administration
- DIR 1021.00, Weapons Qualifications
- PPB Canine Unit Standard Operating Procedures

### **Definitions:**

- **Active Aggression:** A threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is about to happen, unless intervention occurs.
- **Administrative Review:** A written determination that requires the gathering and evaluating of information to develop a course of action.
- **After Action Report:** A written report that describes a police action and assesses its adherence to policy through critique and evaluation using required criteria.
- **Arcing:** Activating a conducted electrical weapon (CEW) without discharging the probes or making contact with a subject, to serve as a warning to the subject.
- **Boxing In:** A coordinated tactic of positioning police vehicles around a subject's vehicle to stop or prevent the start of a pursuit.
- **Complaint of Improper Force:** A complaint by a subject or person at the scene, or while in police custody, of improper force during a police action. Complaints of improper force include complaints of inappropriate and/or excessive force.
- **Complaint of Physical Injury:** An assertion by a person that a member caused the person physical injury.

- Conducted Electrical Weapon (CEW): A weapon, including Tasers, designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and overrides the subject's voluntary motor responses.
- CEW Application: The contact and delivery of an electrical impulse to a subject using a CEW.
- CEW Cycle: An activation of the CEW for a duration of up to five seconds.
- Constitutional Force Standard: Under *Graham v. Connor* and subsequent cases, the federal courts have established that government use of force must comply with the "reasonableness" requirement of the Fourth Amendment. Under this standard, members must choose from the objectively reasonable force options at a scene. See the definition of "objectively reasonable" below.
- Cover Fire: When a member discharges a firearm in a tactical situation in response to the ongoing threat of the use of deadly physical force by a subject, and direct action against the subject is not feasible. Cover fire is not intended to strike a subject, but is meant only to prevent a subject from taking further action against the police or others that could result in death or serious physical injury. Cover fire is also intended to allow officers to take actions to resolve the situation, such as effecting a rescue, advancing or retreating or delivering chemical agents.
- Critical Firearm Discharge: Each discharge of a firearm by a member. This term includes discharges at persons where no one is struck. This term is not intended to include discharges at the range or in training, or negligent discharges not intended as an application of force, which are still subject to administrative investigation.
- Deadly Force, also known as Lethal Force: Any use of force likely to cause death or serious physical injury, including the use of a firearm, carotid neck hold, or strike to the head, neck or throat with a hard object.
- De-escalation: A deliberate attempt to reduce the necessity or intensity of force to resolve confrontation.
- Drive Stun: The process of applying energy to a subject through the terminal on a cartridge or conducted electrical weapon.
- Force: Physical coercion used to effect, influence or persuade an individual to comply with an officer, to include the intentional pointing of a firearm at an individual. Control holds and handcuffing without resistance do not constitute force.
- Immediate Cover: A member who stands ready to deploy additional control if needed (e.g., the CEW is ineffective or it fails to function properly).
- Improper Use of Force: The application of force where there is insufficient justification for its use, where the use of force is more than is objectively necessary or that violates policy.

- **Involved Member:** For the purposes of this directive, 1010.00, Use of Force, an involved member is a Bureau member who is involved in the application of force or directs another to use force.
- **Less Lethal Force:** A force application that is not intended or expected to cause death or serious injury and that is commonly understood to have less potential for causing death or serious injury than conventional, more lethal police tactics. Nonetheless, use of less-lethal force can result in death or serious injury.
- **Less Lethal Weapons:** Weapons designed and intended to apply less lethal force. These weapons include, but are not limited to, CEWs, impact weapons, impact munitions, aerosol restraints.
- **Mental Health Crisis:** An incident in which someone with an actual or perceived mental illness experiences intense feelings of personal distress (e.g., anxiety, depression, anger, fear, panic, hopelessness), a thought disorder (e.g., visual or auditory hallucinations, delusions, sensory impairment or cognitive impairment), obvious changes in functioning (e.g., neglect of personal hygiene) and/or catastrophic life events (e.g., disruptions in personal relationships, support systems or living arrangements; loss of autonomy or parental rights; victimization or natural disasters), which may, but not necessarily, result in an upward trajectory of intensity culminating in thoughts or acts that are dangerous to self and/or others.
- **Mental Illness:** Health conditions that are characterized by alternations in thinking, mood, or behavior (or some combination thereof) associated with distress and/or impaired functioning. Alternations in thinking, mood, or behavior contribute to a host of problems-patient distress, impaired functioning, or heightened risk of death, pain, disability, or loss of freedom.
- **Misconduct:** Conduct by a member that violates Bureau regulations, orders, directives, or other standards of conduct required of City employees.
- **Necessary:** No objectively reasonable effective alternative exists to affect a lawful purpose.
- **Non-Disciplinary Corrective Action:** Action other than discipline taken by a PPB supervisor to enable or encourage a member to improve their performance.
- **Objectively reasonable:** The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision-making. It shall be judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20 hindsight after the event has concluded. The measure of reasonableness gives consideration to the reality that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, uses of the terms reasonable and reasonably in this policy refer to objective reasonableness.
- **Passive Resistance:** A person's non-cooperation with a member that does not involve violence or other active conduct by the individual.

- **Physical Injury:** As defined in ORS § 161.015 (7), the impairment of a person's physical condition or causing a person substantial pain. Substantial pain refers to degree and duration of the pain suffered by the victim; the pain must be considerable and must be more than momentary.
- **Physical Resistance:** A person's physical attempt to evade a member's control that does not rise to the level of active aggression.
- **Probe Cartridge:** A device that contains two probes connected to light gauge wire that is propelled and attaches to the subject upon activation of the CEW.
- **Pursuit Intervention Techniques (PIT):** A driving technique designed to stop a fleeing motorist safely and quickly by making contact with the fleeing car at a specific point on the vehicle, which throws the car into a spin and brings it to a stop.
- **Ramming:** The use of an emergency (police) vehicle, other than in a pursuit intervention technique or boxing-in maneuver to purposely cause contact with another vehicle in order to disable the vehicle.
- **Serious Physical Injury:** As defined in ORS § 161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of function of any bodily organ.
- **Serious Use of Force:** (1) all uses of force by a member that reasonably appear to create or do create a substantial risk of death, serious disfigurement, disability, or impairment of the functioning of any body part or organ; (2) all critical firearm discharges by a member; (3) all uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospitalization, or an injury deemed to be serious by a member's supervisor; (4) all head, neck and throat strikes with an object or carotid neck holds; (5) force used upon juveniles known or reasonably assumed to be under fifteen or individuals known or reasonably assumed to be pregnant; (6) all uses of force by a member resulting in a loss of consciousness; (7) more than two applications of a CEW on an individual during a single interaction, regardless of the mode or duration of the application, regardless of whether the applications are by the same or different officers, and regardless of whether the CEW application is longer than 15 seconds, whether continuous or consecutive; (8) any strike, blow, kick, electronic control weapon system cycle, or similar use of force against a handcuffed, otherwise restrained, under control, or in custody subject, with or without injury; and (9) any use of force referred by a member's supervisor to Professional Standards Division (PSD) which PSD deems serious.
- **Takedown:** Physical coercion used by a member to affect, direct, or influence a person to go to the ground not under their own control.
- **Warning shot:** Discharge of a firearm for the purpose of compelling compliance from an individual, but not intended to cause physical injury.

- Witness member: For the purposes of this directive, 1010.00, Use of Force, a witness member is a Bureau member who observes or has firsthand knowledge of the events surrounding the use of force by another member, and other than observing the incident, did not use force themselves. Additionally, a member who observes or has knowledge of the events surrounding a member's direction to another to use force.

**Policy:**

1. The Portland Police Bureau is committed to upholding the civil rights of all individuals, protecting human life and property and maintaining civil order. The Bureau's commitment to public safety includes ensuring the welfare of members of the public, its officers and professional staff, with an emphasis on the sanctity of life and policing with respect.
2. The Portland Police Bureau recognizes that this commitment may require members to use force. The community expects and the Portland Police Bureau requires that members use only the objectively reasonable force necessary to perform their duties and overcome the threat or resistance of the subject under the totality of the circumstances. Members who violate these values by using objectively unreasonable force erode the confidence of the community and may expose themselves, those present, and the greater population to unnecessary danger; thus, objectively unreasonable uses of force shall result in corrective action and/or discipline, up to and including termination.
3. While the ultimate objective of every law enforcement encounter is to protect the public, nothing in this policy requires a member to retreat or be exposed to possible physical injury before applying reasonable force.
4. Over the course of their careers, the Bureau expects members to develop and use skills and abilities that allow them to regularly resolve confrontations while minimizing the need to use force. Members are to be aware that this Directive is more restrictive than state or federal laws.
5. The Bureau is dedicated to providing training in all categories of force and de-escalation techniques, as well as providing sufficient resources, to help members safely and effectively resolve confrontations through the application of de-escalation tools and lower levels of force. When feasible, members are expected to use de-escalation tactics in order to avoid the need for or reduce the amount of force. However, the Bureau recognizes that each situation is unique and presents its own challenges. Members are expected to adapt and apply Bureau core training principles reasonably in unanticipated situations.
6. Members shall attempt to avoid or minimize the use of force against individuals in perceived behavioral or mental health crisis or those with mental illness and direct such individuals to the appropriate services, where possible.
7. Member accountability is integral to building and maintaining community trust. The Bureau is committed to institutionalizing systems of accountability and establishing transparent reporting practices. When force is used, the Bureau is dedicated to reviewing, reporting and investigating member actions to determine if the force used was in accordance with Bureau training and policy. This policy establishes reporting and investigative guidelines for all use of force. This policy includes the specific reporting requirements for all force incidents and the completion of police reports and After Action reports, as defined in this Directive.

8. The Bureau recognizes that the use of force may have an emotional impact on all involved. Members are encouraged to take proactive steps to mitigate these impacts through positive interactions with subjects and concerned community members following such an event.

**Procedure:**

**1. De-escalation:**

- 1.1. Members shall use disengagement and de-escalation techniques, when time and circumstances reasonably permit. De-escalation techniques provide members the opportunity to stabilize the scene or reduce the necessity for or intensity of force so that more time, options and resources are available to resolve the confrontation. Members shall take proactive steps to eliminate the immediacy of the threat, establish control and minimize the need for force.
  - 1.1.1. De-escalation techniques include, but are not limited to: 1) using verbal techniques to calm an agitated subject and promote rational decision making; 2) allowing the subject appropriate time to respond to direction; 3) communicating with the subject from a safe position using verbal persuasion, advisements, or warnings; 4) decreasing exposure to a potential threat by using distance, cover, or concealment; 5) placing barriers between an uncooperative subject and an officer; 6) ensuring there are an appropriate number of members on scene; 7) containing a threat; 8) moving to a safer position; and 9) avoiding physical confrontation, unless immediately necessary.
  - 1.1.2. When practical and appropriate, members shall consult with and/or call specialized units to respond, including but not limited to those related to behavioral health, tactics and/or negotiation, to assist in de-escalating the situation or devising a disengagement strategy or otherwise assist in safely resolving the incident.
  - 1.1.3. Members shall establish and maintain one on one communication with the subject and avoid giving simultaneous directions or having multiple members verbally engaging the subject to avoid confusion.
- 1.2. Members shall consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to: 1) medical conditions; 2) mental impairment; 3) developmental disability; 4) physical limitation; 5) language barrier; 6) drug or alcohol impairment; and 7) mental health crisis.
- 1.3. When responding to and managing scenes involving persons in mental health crisis and when time and circumstances permit, members shall consider using disengagement and de-escalation techniques, as well as devising a response plan through the ROADMAP tool. Members shall refer to Directive 850.20, Police Response to Mental Health Crisis, for additional guidance regarding ROADMAP and encounters with individuals with known or perceived mental illnesses or experiencing mental health crisis.
  - 1.3.1. Tactics in ROADMAP can be used as a stand-alone tactic, or they may be overlapped with other tactics to create a plan. Plans may need to be altered several times during an incident as it evolves, and members should be prepared to switch to other tactics as the totality of the circumstances changes.

1.3.1.1. When safe under the totality of circumstances, members shall consider disengagement as a tactic to reduce undue safety risks to the member, the involved person(s) or others.

1.4. When force is used, the amount of force used, including the number of members who use force, shall be reduced as resistance decreases. Only the amount of force reasonably calculated to maintain control shall be used.

1.5. Members shall refrain from the use of force against individuals who are already under control by officers or who express verbal discontent with officers, but do not otherwise pose a threat to officers or others, or impede a valid law enforcement function. Members must balance the governmental interest to take action in service of the public against the rights of individuals involved.

## 2. **Authorized Use of Force.**

2.1. Members are authorized to use force when permitted by this policy in order to:

- 2.1.1. Prevent or terminate the commission or attempted commission of an offense;
- 2.1.2. Lawfully take a person into custody, make an arrest or prevent an escape;
- 2.1.3. Prevent a suicide or serious self-inflicted injury;
- 2.1.4. Defend the member or other person from the use of physical force; or,
- 2.1.5. Accomplish some official purpose or duty that is authorized by law or judicial decree.

## 3. **Warning Issuance.**

3.1. Unless it would present a danger to the member(s) or others, members shall issue a verbal warning or attempt to utilize hand signals where there is a language barrier or the subject is deaf or hard of hearing, prior to using any force.

3.1.1. Members shall provide a description of the warning given in their use of force reports. If no warning was given, members shall provide a justification for the lack of warning.

3.2. Prior to using a less lethal weapon, members shall, when feasible, warn or announce to other members their intent to use the tool, in an attempt to avoid sympathetic fire.

## 4. **Prohibited Use of Force.**

4.1. Members shall not use force against people who engage in passive resistance that does not impede a lawful objective. Physically moving a subject engaged in passive resistance is permitted when it is necessary and objectively reasonable.

4.2. Members are prohibited from using force for interrogation or torture.

4.3. Under no circumstances will a member use force solely because another member is using force.

## 5. **Graham Standard: Force Performance Requirements.**

5.1. To comply with this Directive and satisfy the constitutional standard, members shall only use force that is objectively reasonable under the totality of circumstances. When determining to use any force, members must balance the individual's Fourth Amendment rights against the

government's interest. Members shall at least consider the following three criteria in making a decision to use force:

- 5.1.1. **Threat.** Whether the individual poses an immediate threat to the safety of the officers or others. The extent and immediacy of the threat are the most important determining factors when considering the need for and type of force that may be reasonable during an encounter.
- 5.1.2. **Severity.** The severity of the crime at issue.
- 5.1.3. **Active Resistance or Evading.** Whether the individual is actively resisting control or attempting to evade. When force is used, the amount of force used, shall be reduced as resistance decreases. Only the amount of force reasonably calculated to maintain control shall be used.

5.2. Though the above three factors are of primary consideration, a reasonableness inquiry is not limited to these factors and force will be evaluated under the totality of the circumstances.

### 5.3. **Member Considerations for Use of Force.**

- 5.3.1. Members should recognize that their approach to confrontations may influence whether force becomes necessary and the amount force that must be used.
- 5.3.2. Members must not precipitate a use of force by placing themselves or others in jeopardy through actions that are inconsistent with the Bureau's training without a substantial justification for variation from recommended practices.
- 5.3.3. When feasible, members shall allow individuals time to submit to arrest before force is used.

### 5.4. **Other Member Responsibilities.**

- 5.4.1. Members must individually justify each independent application of force. When feasible, members shall re-evaluate the need for continued force in between independent uses of force.
- 5.4.2. Members have a duty to reasonably intercede to prevent the use of unlawful force by another member.
- 5.4.3. Members shall take into account all available information, including observed behavior, reports from other members or witnesses, known mental health history and perceived mental illness or mental health crisis.
- 5.4.4. During a confrontation with an individual known or perceived to be in mental health crisis, members must recognize and reasonably balance the governmental interest in providing care to the individual with the need for force. Members shall call in specialized units when practical.
- 5.4.5. Members shall refer to Directive 850.20, Police Response to Mental Health Crisis, for intervention techniques regarding individuals with known or perceived mental illnesses or experiencing a mental health crisis.

## 6. **Less Lethal Force.**

- 6.1. Less lethal force provides members with additional tactics or options for managing encounters with confrontational or resistive subjects. However, members shall consider that the use of less lethal force can still result in death or serious injury.

- 6.2. Members shall not use less lethal weapons on the following persons unless the person is armed with a dangerous or deadly weapon, or is about to commit suicide, or is in the act of causing harm to themselves or others:
  - 6.2.1. Children who are known to be, or are obviously under the age of fifteen.
  - 6.2.2. An individual who is known to be, or is obviously pregnant.
  - 6.2.3. A person who is known to be, or is obviously medically fragile.
  
- 6.3. Members shall not use any less lethal weapons against individuals who are handcuffed or otherwise restrained, and under control.
  
- 6.4. Additional rules for Bureau-authorized less lethal weapons are outlined below:
  - 6.4.1. *Impact Weapons.*
    - 6.4.1.1. Authorized Uses.
      - 6.4.1.1.1. In response to active aggression.
        - 6.4.1.1.1.1. When striking, members should only use the Bureau-issued baton. Use of any other impact tool is strongly discouraged and is appropriate only when the member reasonably believes that other authorized physical force responses are not available.
        - 6.4.1.1.1.2. Members shall make reasonable efforts to ensure that impact weapons are used on preferred target areas, including arms and legs.
    - 6.4.1.2. Restricted Uses.
      - 6.4.1.2.1. Members striking or jabbing with a baton shall not deliberately target the head or throat, neck, spine or groin unless deadly force would be authorized.
        - 6.4.1.2.1.1. Unintentional or inadvertent strikes to these restricted areas require following all other reporting procedures, with the addition of explicitly verbally notifying a supervisor that this has occurred. Reports must specifically address the circumstances and actions that related to striking restricted areas.
  - 6.4.2. *Impact Munitions.*
    - 6.4.2.1. Authorized Uses.
      - 6.4.2.1.1. In response to active aggression;
      - 6.4.2.1.2. To prevent suicide or immediate physical harm when reasonable in light of available options;
      - 6.4.2.1.3. To avoid the use of a higher level of force; or,
      - 6.4.2.1.4. To effect the capture or prevent the escape of a subject when the member reasonably believes that the subject presents a risk of death or serious injury to the public, members or themselves. Mere flight from an officer is not sufficient cause for the use of the impact munitions.
      - 6.4.2.1.5. Members shall make reasonable efforts to ensure that impact munitions are used on preferred target areas. Under seven yards, members will aim for the legs. Over seven yards, members will aim anywhere below the waist line except the groin.
    - 6.4.2.2. Restricted Uses.
      - 6.4.2.2.1. Members shall not deliberately target a subject's head, neck, throat or groin area, unless deadly force is authorized.

- 6.4.2.2.2. Members are prohibited from using beanbag round against an individual for the purpose of crowd control or crowd management, except at the direction of a supervisor and with the approval of the Incident Commander (IC), unless there are exigent circumstances requiring deployment to prevent the threat of death or serious injury to a person.
- 6.4.3. *Aerosol Restraints.*
  - 6.4.3.1. Authorized Uses.
    - 6.4.3.1.1. When a person(s) engages in physical resistance or indicates the intent to engage in physical resistance.
    - 6.4.3.1.2. Members may use aerosol restraints on vicious or aggressive animals, when the presence of those animals interferes with the safety of the members or the execution of a police function or completion of a mission.
  - 6.4.3.2. Restricted Uses.
    - 6.4.3.2.1. Aerosol restraints shall not be used on the operator of a motor vehicle that is immediately capable of being driven unless there is a substantial justification for doing so and no reasonable alternative is apparent.
    - 6.4.3.2.2. When deploying aerosol restraints, members shall attempt to minimize exposure to non-targeted persons.
  - 6.4.3.3. Actions Following the Use of Aerosol Restraints.
    - 6.4.3.3.1. Members shall make a reasonable effort to ensure that affected individuals are exposed to fresh air. Members shall, as soon as practicable, relieve the subject's discomfort by washing aerosol spray from the subject's eyes with water, unless the subject refuses by words or action.
    - 6.4.3.3.2. Members shall notify the receiving agency of aerosol restraint exposure, and the condition of the exposed individual taken into custody shall be continuously monitored. If the individual's condition appears to worsen, members shall notify medical personnel.
- 6.4.4. *Conducted Electrical Weapon System (CEW).*
  - 6.4.4.1. Authorized Uses.
    - 6.4.4.1.1. In response to active aggression;
    - 6.4.4.1.2. To prevent suicide or immediate physical harm when reasonable in light of available options;
    - 6.4.4.1.3. To avoid the use of a higher level of force; or,
    - 6.4.4.1.4. To effect the capture or prevent the escape of a subject when the member reasonably believes that the subject presents a risk of death or serious injury to the public, members or themselves. Mere flight from an officer is not sufficient cause for the use of the CEW.
    - 6.4.4.1.5. Members may also utilize warning tactics such as arcing or activating the CEW lasers in an attempt to gain compliance. Members should point the CEW in a safe direction when arcing and never intentionally direct the lasers into the eyes of a person.
    - 6.4.4.1.6. Members may use a CEW on vicious or aggressive animals when the presence of those animals interferes with the safety of the members, the execution of a police function, or completion of a mission.
  - 6.4.4.2. Restricted Uses.

- 6.4.4.2.1. Members shall avoid the use of more than three CEW applications against the same individual, unless exigent circumstances (immediate and serious bodily harm to a person or persons is about to occur) warrant use. Members shall not use a CEW for pain compliance against those a reasonable officer would believe have an actual or perceived mental illness or are in mental health crisis, except in exigent circumstances and then only to avoid the use of a higher level of force.
- 6.4.4.2.2. Members shall not use a CEW to threaten or coerce a person except for the purpose of managing a potential or actual physical confrontation.
- 6.4.4.2.3. Members shall not use a CEW when there is a significantly heightened risk of secondary injury (e.g., uncontrolled fall, drowning) to the subject or others unless the member reasonably believes the threat or danger posed by the subject outweighs the risk of injury that might occur as a result of loss of control.
- 6.4.4.2.4. Members shall not use a CEW on a handcuffed or otherwise restrained subject, unless doing so is necessary to prevent them from causing serious physical injury to themselves or others, and/or to avoid greater application of use of force and no reasonable alternative is apparent. Where practical and safe to do so, members shall obtain supervisory authorization before deploying a CEW on a handcuffed subject.
- 6.4.4.2.5. Members shall not draw both a firearm and a CEW at the same time.
- 6.4.4.2.6. Members shall not use a CEW for crowd control or management purposes.
- 6.4.4.2.7. Members shall not deliberately target the head, face, or groin. When tactically feasible and time reasonably permits, members shall target lower-center mass for front shots.
- 6.4.4.2.8. Members shall not use a CEW on subjects who are known or who the member should have reasonably known to have come in contact with flammables or those in areas where flammables are present.
- 6.4.4.3. Additional considerations when using a CEW.
  - 6.4.4.3.1. Members shall visually and physically confirm that the weapon they are holding is a CEW and not a firearm.
  - 6.4.4.3.2. Only one member may intentionally deploy a CEW at any given time on a subject, except where lethal force would be permitted.
  - 6.4.4.3.3. Members deploying a CEW operationally, if feasible, should be supported by at least one member capable of providing immediate cover.
  - 6.4.4.3.4. Members shall make every reasonable effort to attempt handcuffing during or between each CEW cycle.
  - 6.4.4.3.5. After one standard CEW cycle, the member shall re-evaluate the situation to determine if subsequent cycles are necessary; members shall issue a warning prior to each additional cycle and wait a reasonable amount of time to allow the subject to comply, unless doing so would present a danger to the member(s) or others. Members shall describe and explain the reasonableness of each CEW cycle in their use of force reports.
- 6.4.4.4. Actions following the use of a CEW.
  - 6.4.4.4.1. Involved member responsibilities:

- 6.4.4.4.1.1. If possible, members shall photograph consistent with Directive 640.02, Photography and Digital Imaging, the areas of probe strikes, whether probes penetrated the person's skin, left visible marks or only penetrated the person's clothing, before and after probe removal, as well as any marks, or lack of marks, left by drive stun. Consent should be obtained before photographing personally sensitive areas. All photographs shall be placed into evidence in accordance with Bureau policy.
- 6.4.4.4.2. Supervisor responsibilities:
  - 6.4.4.4.2.1. Verify evidence of CEW deployment is collected, including photographs of tags, cartridges and probes.
  - 6.4.4.4.2.2. Verify appropriate medical services are summoned, if necessary.
- 6.4.5. *Canine Deployment.*
  - 6.4.5.1. Authorized Uses.
    - 6.4.5.1.1. To protect the canine officer, the police canine or members of the community from an immediate threat.
    - 6.4.5.1.2. To apprehend or control subjects reasonably believed to be involved in a crime.
    - 6.4.5.1.3. To apprehend a fleeing criminal subject when the canine officer reasonably believes that probable cause exists to arrest a subject for a crime.
    - 6.4.5.1.4. To apprehend hiding subjects when it would be unsafe for officers to proceed into an area.
    - 6.4.5.1.5. Members shall refer to the Canine Unit SOPs for additional guidance.
  - 6.4.5.2. Restricted Uses.
    - 6.4.5.2.1. Members shall not use canines for crowd control or management purposes.
- 6.4.6. *Riot Control Agents (RCAs) or Area Impact Munitions.*
  - 6.4.6.1. Authorized Uses in Crowd Control.
    - 6.4.6.1.1. Under the direction of the Crowd Management Incident Commander (CMIC), to disperse a crowd, when a demonstration or event becomes a civil disturbance, as defined in Directive 635.10, Crowd Management/Crowd Control.
    - 6.4.6.1.2. To stop or disrupt a group of individuals committing a crime or about to commit a crime, when other more discriminate methods are not feasible or reasonable, and uninvolved parties are unlikely to be subjected to the use of force.
    - 6.4.6.1.3. When a person(s) engages in physical resistance or indicates the intent to engage in physical resistance.
    - 6.4.6.1.4. In exigent circumstances to defend the member or others from physical injury when other, more discriminate methods of applying force are not feasible and uninvolved parties are unlikely to be subjected to the use of force.
  - 6.4.6.2. Restricted Use.
    - 6.4.6.2.1. Members shall not use RCAs or area impact munitions on a crowd engaged in passive resistance that does not impede a lawful objective.
    - 6.4.6.2.2. Members shall not deploy RCAs or area impact munitions to disperse a crowd when avenues of escape are unavailable to the crowd.

6.5. Restraint Device.

6.5.1. *Hobble Restraint.*

6.5.1.1. Authorized Uses.

6.5.1.1.1. To control a subject beyond the capability of handcuffs.

6.5.1.1.1.1. The hobble restraint may be used to supplement handcuffs. It shall not be used in lieu of handcuffs.

6.5.1.1.2. If a subject has demonstrated the intent to slip their handcuffs to the front, hobble restraints may be used on the upper arms or legs to prevent such an action.

6.5.1.1.3. Hobble restraints (straight leg restraint) may be used to secure a combative subject's legs together to prevent kicking.

6.5.1.1.4. A hobble may be used to secure an animal.

6.5.1.2. Restricted Uses.

6.5.1.2.1. Members shall not use the maximum restraint technique (i.e., securing a subject's knees or ankles in a straight leg restraint, then fastening the hobble to the handcuffs).

6.5.1.2.2. Once secured, a subject shall not be placed on their stomach for an extended period. If feasible, the subject should be placed the subject's side or in a seated position.

7. **Police Vehicle Intervention Strategies.**

7.1. Intentional contact between a police vehicle and another occupied vehicle shall constitute a use of force for purposes of this policy. These techniques include, but are not limited to, Pursuit Intervention Technique maneuver (PIT), boxing-in, and ramming.

7.2. Use of vehicle intervention strategies shall require use of force reporting and After Action review pursuant to the reporting sections in this directive. Members should refer to the applicable force categories for reporting requirements.

7.3. Members shall refer to Directive 630.05, Vehicle Pursuits, for additional guidance on the authorized use of these vehicle intervention strategies.

8. **Deadly Force.**

8.1. Authorized uses of deadly force:

8.1.1. Members may use deadly force to protect themselves or others from what they reasonably believe to be an immediate threat of death or serious physical injury; or,

8.1.2. If necessary to prevent escape, a member may use deadly force where the member has probable cause to believe that the subject has committed a felony crime involving the infliction or threatened infliction of serious physical harm, and the member reasonably believes the subject poses an immediate threat of death or serious physical injury to the member or others.

8.2. The member shall give a verbal warning to the subject, if time, safety, and circumstances permit.

- 8.2.1. Members should be mindful of the risks inherent in employing deadly force, which may endanger others. Reckless or negligent use of deadly force is not justified in this Directive or state statute.
  - 8.2.2. Cover fire shall be investigated as a Category I use of deadly force and is only authorized if the member reasonably believes that an immediate threat of death or serious physical injury exists.
- 8.3. Restrictions on the use of firearms as deadly force:
- 8.3.1. Members are prohibited from firing warning shots.
- 8.4. Additional authorized uses for firearms:
- 8.4.1. A member is authorized to discharge a firearm to stop an aggressive animal that poses a danger to the member or others or end the suffering of a badly injured animal. Members shall refer to Directive 631.70, Investigation of Animal Problems, for additional guidance.
- 8.5. Moving Vehicles.
- 8.5.1. A moving vehicle does not presumptively constitute a deadly force threat.
  - 8.5.2. Members shall not shoot at a moving or fleeing vehicle unless an immediate risk of death or serious physical injury to the member or others exists.
  - 8.5.3. Members are prohibited from intentionally positioning themselves in the path of a moving vehicle or in a location that is clearly vulnerable to vehicular attack.
  - 8.5.4. When feasible, members shall move out of the path of a vehicle rather than discharging a firearm at the vehicle or its occupants.
  - 8.5.5. Members shall consider whether the threat to the member or other persons (including all vehicle occupants) is increased by incapacitating the vehicle operator. If the operator is incapacitated, the unguided vehicle may remain a threat to anyone in its path. Members shall weigh the threat of incapacitating the driver against the threat posed by allowing the driver to maintain control of the vehicle.
  - 8.5.6. Members must be aware that shooting at a moving vehicle presents unique challenges of target and backstop.
  - 8.5.7. Members must be aware that shooting from a moving vehicle creates additional challenges of stability and aiming that must be considered in the decision to employ deadly force.
  - 8.5.8. Members shall not use poor tactics or positioning as justification for shooting at or from a moving vehicle.
  - 8.5.9. Members are prohibited from entering an occupied vehicle that is readily capable of being driven (i.e., engine running or keys in the ignition) without substantial justification.
- 8.6. Members shall refer to Directives 1020.00, Weapons Administration and 1021.00, Weapons Qualifications, for additional guidelines regarding the issuance, qualification requirements and secure storage of Bureau-issued weapons.

## **9. Post-force Medical Requirements.**

- 9.1. Members shall summon medical services at the earliest available opportunity when a subject is injured, complains of injury following any use of force, or is a person in a prohibited category (i.e., children under the age of fifteen; an individual who is known to be, or is obviously pregnant; a person who is known to be, or is obviously medically fragile), who sustains Category I through III force (See Section 10). If an individual refuses medical evaluation, the refusal must be documented in an appropriate report. Members shall refer to Directive 630.45, Emergency Medical Custody Transports for additional guidance.
- 9.2. Members shall render emergency first aid within the limits of their individual skills, training and available equipment until professional medical care providers arrive on the scene.
- 9.3. The member shall continually monitor the person for changes in skin or lip color, breathing and levels of consciousness. If the individual's condition deteriorates, the member shall immediately notify Emergency Medical Services (EMS).
- 9.4. Members shall provide known and reasonably necessary information to facilitate the injured person's transport to a medical facility for additional treatment if recommended by EMS. Refer to Directive 630.45, Emergency Medical Custody Transports, for additional guidance on transporting injured subjects.
- 9.5. When transporting a person from hospital treatment to a correctional facility, members shall notify a corrections staff member of the extent of the person's injuries and medical treatment given, and provide the corrections staff with the person's medical release forms from the medical facility.
- 9.6. If a person complains of or appears to be experiencing respiratory distress (e.g., positional asphyxia), members shall perform the following as soon as practical:
  - 9.6.1. If a member's body weight is impeding a subject's breathing, the member shall remove their body weight.
  - 9.6.2. Summon EMS.
  - 9.6.3. Check and continue to monitor the person's breathing and pulse until EMS arrives.
  - 9.6.4. If medically appropriate, place the person in a seated position or position the person on their side to facilitate breathing.
- 9.7. Members shall follow protocols developed by the Bureau, in conjunction with medical professionals, on their responsibilities following CEW use. Conditions requiring medical treatment after deployment:
  - 9.7.1. When a CEW is deployed in probe mode:
    - 9.7.1.1. If the probes are embedded in the skin, Portland Fire and Rescue shall be summoned to remove the probes and provide medical treatment, if necessary. If the CEW is deployed outside of Portland Fire and Rescue's response area and medical treatment is mandated by this Directive or other injury, the fire department or EMS with jurisdiction shall be summoned.
    - 9.7.1.2. Portland Fire and Rescue shall be the first responder to CEW deployments that require only the removal of probes and no other medical treatment, other than removal and treatment of the wound caused by the CEW probes. To ensure a

response from Portland Fire and Rescue only, members must advise the Bureau of Emergency Communications that Portland Fire and Rescue is needed to remove the CEW probes.

9.7.2. When the CEW is deployed on a person in drive stun mode and no probes are deployed, EMS is not required on the scene, unless medical treatment is otherwise necessary.

9.7.2.1. Members shall summon EMS if the CEW is deployed in drive stun mode on a person in a prohibited category (i.e., children under the age of fifteen; an individual who is known to be, or is obviously pregnant; a person who is known to be, or is obviously medically fragile).

9.8. When any force is used on a person suffering or perceived to be suffering from excited delirium (before, during or after the application of force), members shall summon EMS to the scene. Members shall ensure the subject is examined at the scene. If in custody and EMS recommends transport, the subject will be transported to the hospital. If not in custody, and EMS declares the individual mentally competent, the individual can refuse treatment and transport.

## 10. Categories of Force.

10.1. Reporting and investigating requirements are determined by the type of force deployed, injury sustained, and/or complaint of injury. A supervisor who receives notification of a use of force shall respond to the scene to determine the appropriate level of investigation pursuant to the categories listed below. If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.

10.2. Category I: The application of deadly force, an in-custody death, and death that occurs as a result of member(s)' use of force.

10.2.1. Category I force includes, but is not limited to:

10.2.1.1. All critical firearm discharges by a member, except as authorized to stop an aggressive animal or end the suffering of a badly injured animal.

10.2.1.2. In-custody deaths;

10.2.1.3. Death as a result of member(s)' use of force;

10.2.1.4. Carotid neck holds; and

10.2.1.5. All intentional head, neck and throat strikes with a hard object or when a member strikes the head of a subject against a hard object.

10.2.2. Category I Review.

10.2.2.1. The level of investigative response for Category I Force is governed by Directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures.

10.3. Category II: Other than deadly force, force resulting in hospital admission; force that is reasonably likely to cause enduring: pain, physical injury, disability or impairment of any body part, but does not result in death.

10.3.1. Category II force includes, but is not limited to:

- 10.3.1.1. All uses of force by a member resulting in a significant injury, including a broken bone, an injury requiring hospital treatment (without admission), or an injury deemed to be serious by a member's supervisor;
- 10.3.1.2. Any uses of force by a member on a subject that require hospital admission due to the force applied by a member;
- 10.3.1.3. More than one simultaneous intentional CEW application on a subject at a time;
- 10.3.1.4. Three or more CEW applications to the same person;
- 10.3.1.5. CEW deployments on restricted persons (i.e., children under the age of fifteen, pregnant individuals, medically fragile);
- 10.3.1.6. CEW deployments on individuals who have an actual or perceived mental illness, or who are in mental health crisis;
- 10.3.1.7. All launched impact munitions with contact;
- 10.3.1.8. Impact weapon, with injury requiring hospital treatment;
- 10.3.1.9. Firearm discharges to stop an aggressive animal;
- 10.3.1.10. Canine bites;
- 10.3.1.11. Takedown that causes injury requiring hospital treatment;
- 10.3.1.12. Riot control agents and/or area impact munitions;
- 10.3.1.13. Force used upon juveniles known or reasonably assumed to be under age fifteen;
- 10.3.1.14. Force used upon individuals known or reasonably assumed to be pregnant;
- 10.3.1.15. Force resulting in a loss of consciousness;
- 10.3.1.16. Any strike, blow, kick or similar use of force against a handcuffed, otherwise restrained, under control, or in-custody subject, with or without injury; and
- 10.3.1.17. Ramming as a vehicle intervention strategy.
- 10.3.2. Category II Review.
  - 10.3.2.1. For all force resulting in hospital admission, supervisors shall notify the Detective Division of the incident, and a detective shall respond to assist in the investigation of the use of force. The involved member's supervisor shall complete the use of force After Action report.
  - 10.3.2.2. For all force involving more than one simultaneous intentional CEW application on a subject, supervisors shall notify the Detective Division of the incident, and a detective may respond to assist in the investigation of the use of force. The involved member's supervisor shall complete the use of force After Action report.
  - 10.3.2.3. The use of force After Action report shall be reviewed through the chain of command, up to and including the Assistant Chief.
- 10.4. Category III: Force that is reasonably likely to cause non-enduring: pain, disorientation, physical injury, or the complaint of pain.
  - 10.4.1. Category III force includes, but is not limited to:
    - 10.4.1.1. CEW deployment of one (1) or two (2) applications;
    - 10.4.1.2. Use of aerosol restraints;
    - 10.4.1.3. Chemical agents used by SERT;
    - 10.4.1.4. Use of impact weapon, without injury;
    - 10.4.1.5. Physical injury or complaint of injury;
    - 10.4.1.6. Complaint of improper force;
    - 10.4.1.7. CEW and launched impact munitions, without contact;
    - 10.4.1.8. Takedown;

- 10.4.1.9. Strikes with the hands or feet; and
- 10.4.1.10. PIT maneuver as a vehicle intervention strategy.
- 10.4.2. Category III Review.
  - 10.4.2.1. The use of force After Action report shall be reviewed through the chain of command, up to and including the RU Manager.
- 10.5. Category IV: Force that is intended to establish control of a resistant subject, though not intended or reasonably likely to cause persistent pain or physical injury.
  - 10.5.1. Category IV force includes, but is not limited to:
    - 10.5.1.1. Non-striking use of baton;
    - 10.5.1.2. Takedown performed in a completely controlled manner where there is minimal resistance and no injury;
    - 10.5.1.3. Handcuffing against resistance;
    - 10.5.1.4. Pointing of a firearm;
    - 10.5.1.5. Use of hobble restraint;
    - 10.5.1.6. Firearm discharges to end the suffering of a badly injured animal; and
    - 10.5.1.7. Boxing In maneuver as a vehicle intervention strategy.
  - 10.5.2. Category IV Review.
    - 10.5.2.1. The use of force After Action report shall be reviewed through the chain of command, up to and including the Sergeant's immediate supervisor.
- 10.6. Additional Considerations.
  - 10.6.1. Supervisors have the discretion to elevate the category of any force investigation.
  - 10.6.2. When multiple force options are used during an incident, the investigation shall be conducted at the highest applicable category.
  - 10.6.3. If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.
  - 10.6.4. An on-scene supervisor who reasonably believes that a use of force involves significant misconduct by a member shall immediately notify their immediate supervisor and PSD. PSD shall determine the degree of investigation required.
  - 10.6.5. Force incidents that involve a vehicle may be classified under any category of force; the appropriate category will be determined by a member's supervisor and will depend on the totality of the circumstances. Refer to Directive 630.05, Vehicle Pursuits, for additional guidance.
  - 10.6.6. Specialty units, such as the Special Emergency Response Team (SERT), Rapid Response Team (RRT) or others, are not exempt from use of force reporting procedures, as defined in this directive.

## 11. Reporting

- 11.1. Member Reporting of Force.
  - 11.1.1. Members shall immediately notify a supervisor regarding any use of force.
  - 11.1.2. All members will notify a supervisor as soon as practical when a complaint of improper force, a complaint of physical injury, or actual injury to a subject in custody as defined within this Directive occurs or they become aware of the same.
  - 11.1.3. All members involved in a Category II through IV use of force shall provide a candid and detailed verbal account of the event at the scene.

- 11.1.4. All members involved in a Category II through IV use of force shall submit use of force reports in a timely manner, which include a candid and detailed account of the event, to facilitate a thorough review of the incident in question by supervisory members. Involved members shall submit use of force reports prior to the conclusion of the shift, unless incapacitated. Involved members shall report all uses of force whether or not the subject is struck or affected by any weapon.
- 11.1.5. Members involved in a Category I use of force shall refer to Directive 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, for reporting and investigation requirements for deadly force incidents.
- 11.1.6. All members who witness any use of force shall provide a candid and detailed verbal account of the event at the scene. Members who witness a Category I through III use of force shall also submit appropriate reports in a timely manner, which include a candid and detailed account of the event, to facilitate a thorough review of the incident in question by supervisory members. Witness members shall submit reports prior to the conclusion of the shift, unless incapacitated. Witness members shall report all uses of force whether or not the subject is struck or affected by any weapon.
- 11.1.7. Reports shall demonstrate that the member(s) made diligent efforts to locate witnesses and explain when circumstances prevented them from doing so or obtaining contact information. Reports shall also include all available identifying information for anyone who refuses to provide a statement.
- 11.1.8. All reports related to use of force shall follow Directive 900.00, General Reporting Guidelines, regarding formatting, timeliness of completion, and submission.
- 11.1.9. In addition to those guidelines, regardless of force category or type, involved members shall also include a description of the following in their use of force reports:
  - 11.1.9.1. The reason for the initial police presence.
  - 11.1.9.2. The unique characteristics of the event.
  - 11.1.9.3. Whether the individual or subject was known by the member to be mentally ill or in mental health crisis. If mental illness was present, members shall describe how they took that into account and how it impacted their decision making.
  - 11.1.9.4. A description of the decision-making at each significant point leading up to and during the event.
  - 11.1.9.5. The force used, to include descriptive information regarding the use of any weapon.
  - 11.1.9.6. Any observable injury to the subject, any complaint of injury or the absence of injury, including information regarding any medical aid or on-scene medical evaluation provided or refused by the subject, when applicable.
  - 11.1.9.7. The level of resistance encountered by each officer that led to each separate use of force and, if applicable, any injuries to the subject(s) or member(s).
  - 11.1.9.8. What, if any, de-escalation techniques were used and whether or not they were effective. If not used, the member shall provide justification as to how time and circumstances did not reasonably permit the member to utilize de-escalation techniques.
  - 11.1.9.9. Members shall include all relevant considerations found within this, and other appropriate, directives in their reports.
- 11.1.10. For force Categories I through III, members shall provide a narrative account of the force they observed another member apply.

11.1.10.1. Members shall immediately notify an on-duty supervisor of any use of force by another member that violates the constitutional standard as soon as safe to do so.

11.2. Additional Reporting Guidelines for Less Lethal Weapon & Munition Use.

11.2.1. The member shall complete and submit a use of force report documenting the incident. The use of force report shall contain:

11.2.1.1. The specific circumstances that led to the discharge of the weapon.

11.2.1.2. The name of the supervisor who was verbally notified, as well as the name of the responding supervisor, if different.

11.2.1.3. A description of the warning given. If no warning was given, members shall state why.

11.2.2. If the member who discharged the weapon is injured and unable to submit a use of force report, the reporting requirement for involved members can be delayed until the member is capable of completing the report.

11.2.3. Reporting of CEW Use.

11.2.3.1. The report shall document:

11.2.3.1.1. The specific circumstances leading to the use of the CEW.

11.2.3.1.2. All warnings given to members and the subject. If no warnings were given, members shall document their justification for not issuing a warning.

11.2.3.1.3. The distance from which the CEW was used.

11.2.3.1.4. The location on the subject's body of the probe strike and the impact points.

11.2.3.1.5. The serial numbers of all cartridges expended.

11.2.3.1.6. The serial number of the CEW used.

11.2.3.1.7. The name of the member designated as immediate cover, if applicable or present.

11.2.3.1.8. The name of the supervisor who was verbally notified as well as the responding supervisor, if different.

11.2.3.1.9. Whether EMS responded and the results of any medical evaluation, if applicable. If EMS was not summoned, the member shall provide a justification.

11.2.3.1.10. Any evidence or complaints of injury or illness by the subject.

11.2.4. Reporting of Canine Use.

11.2.4.1. Canine handlers shall also complete a use of force report for all bites.

11.2.4.2. Canine unit supervisors shall complete an After Action report for all directed and unintentional canine bites through channels to the appropriate Assistant Chief.

**12. Supervisor Reporting and Investigation.**

12.1. A supervisor who receives notification of a use of force shall respond to the scene unless extraordinary circumstances exist. In rare circumstances, safety or other practicality reasons may prevent a supervisor from responding directly to the scene, and instead necessitate that the supervisor respond to a proximate location.

12.2. Where necessary, the supervisor shall ensure that the subject upon whom force was used receives medical attention from an appropriate medical provider.

- 12.3. The supervisor shall conduct an administrative review and a thorough investigation of the use of force, consistent with this policy, gathering applicable evidence described in Section 13.4. of this policy.
- 12.4. Supervisors shall personally speak to the involved member and make an inquiry sufficient to determine the nature of the event and the member's justification for the use of force.
- 12.5. Supervisors shall personally speak to the witness member(s) and make an inquiry sufficient to describe the nature of the force.
- 12.6. Supervisors shall interview members and witnesses individually and not in groups.
- 12.7. Supervisors shall make diligent efforts to document witness observations.
- 12.8. Supervisors shall immediately notify the shift supervisor and PSD regarding any use of force that could appear, to a reasonable supervisor, to violate the Constitutional Force standard; all members' Serious Use of Force; any use of force against persons who have actual or perceived mental illness; or any suspected significant member misconduct.
- 12.9. In the event that the supervisor suspects possible criminal conduct, the supervisor shall notify their shift supervisor, PSD, the branch Assistant Chief, and the Bureau's Detective Division.

### **13. Force After Action Reports.**

- 13.1. For Category II-IV force incidents, the supervisor shall document the findings of the review and investigation in an After Action report, and forward the report through the chain of command.
- 13.2. The After Action report form serves as a checklist to ensure that supervisors carry out force investigation responsibilities. The Inspector, or Chief's designee, shall review the form for adequacy and relevance, at least annually, and revise as needed.
- 13.3. For Category II-IV force incidents, supervisors shall complete an After Action report within 72 hours of the use of force.
- 13.4. All force After Action reports or, in use of deadly force incidents, the investigator's report shall contain a detailed description and comprehensive account of the force. The report(s) shall include:
  - 13.4.1. Summary: a short one or two paragraph narrative that describes the significant facts of the event.
  - 13.4.2. Involved Member statement: a narrative that describes the use of force.
  - 13.4.3. Investigation: a description of what actions supervisors took and directions they gave on scene.
  - 13.4.4. Discussion of force: a description of the nature of the force and the member's justification for the use of force.

- 13.4.5. Injuries: a description and photographs of the presence or absence of injuries to the subject or Bureau member involved in the use of force and if any medical treatment was administered, and by whom.
- 13.4.6. Subject statement: supervisors shall make an attempt to obtain a statement from the subject detailing the event and any injuries.
- 13.4.7. Witness Member statement: supervisors shall obtain a statement from the witness member(s) detailing their observation of the event.
- 13.4.8. Non-member witness statements: supervisors shall make an attempt to locate witnesses to the event and obtain and document complete statements. If any information from the witness statements needs to be documented in a criminal report, the supervisor shall ensure that the witness statements are documented in the appropriate report. Supervisors shall document circumstances that prevent them from identifying witnesses or obtaining contact information. Reports shall include all available identifying information for anyone who refuses to provide a witness statement.
- 13.4.9. Physical evidence: supervisors shall ensure that the administrative review includes collecting any physical or photographic/video evidence that may assist other reviewers in the chain of command in understanding the scene and event.
- 13.4.10. Critique Findings and Recommendations: the critique of findings and recommendations shall contain a thorough analysis of the incident. It shall address any applicable directives, whether or not members complied with such directives and any recommendations or actions taken to address issues encountered on-scene or during the reporting process. Supervisors may also modify findings as appropriate and document modifications.
  - 13.4.10.1. The authoring supervisor shall:
    - 13.4.10.1.1. Review all use of force reports to ensure that they include information required per Bureau policy;
    - 13.4.10.1.2. Evaluate the weight of the evidence;
    - 13.4.10.1.3. Use a decision-point approach to analyze each use of force;
    - 13.4.10.1.4. Determine whether the member's actions appear consistent with Bureau policy;
    - 13.4.10.1.5. Determine whether there was legal justification for the original stop and/or detention;
    - 13.4.10.1.6. Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, and for failing to report a use of force, whether applied or observed; and
    - 13.4.10.1.7. Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that they discuss poor tactical decisions with the member and that the discussion is documented in the Employee Information System (EIS).
  - 13.4.10.2. Supervisors in the chain of command review shall:
    - 13.4.10.2.1. Ensure the authoring supervisor met all the requirements of 13.4.10.;
    - 13.4.10.2.2. Review after action report findings using a preponderance of the evidence standard;
    - 13.4.10.2.3. Review after action reports to ensure completeness and order additional investigation, when necessary;

- 13.4.10.2.4. Assess the incident for tactical and training implications, including whether the use of force may have been avoided through the use of de-escalation techniques or less force options;
- 13.4.10.2.5. Modify findings as appropriate and document modifications;
- 13.4.10.2.6. Order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improve the reliability or credibility of the findings and counsel the investigator;
- 13.4.10.2.7. Implement corrective action whenever there are material omissions or inaccuracies in the members' use of force reports, and for failing to report a use of force, whether applied or observed;
- 13.4.10.2.8. Document any non-disciplinary corrective action, training deficiencies, policy deficiencies or poor tactical decisions and ensure that the authoring supervisor discusses poor tactical decisions with the member and that the discussion is documented in EIS;
- 13.4.10.2.9. Suspend an investigation immediately and notify the branch Assistant Chief, the Director of PSD and the Detectives Division whenever the investigation supervisor, shift commander or Division commander finds evidence of apparent criminal conduct by a member; and
- 13.4.10.2.10. Report a matter to PSD for review and investigation whenever an investigating supervisor, shift commander or precinct commander finds evidence of significant misconduct by a member or employee.
- 13.4.10.3. The use of force After Action report shall be completed through the RU within twenty-one days of the event.
- 13.5. If a supervisor determines that there were performance deficiencies not rising to the level of misconduct, supervisors shall determine whether additional training or counseling is warranted. The Bureau shall provide such counseling or training, consistent with Bureau policies.
- 13.6. Supervisors shall ensure that EIS tracks all comments, findings, and corrections related to the After Action Reports. Members shall refer to Directive 345.00, Employee Information System (EIS), for additional guidelines.
- 13.7. All supervisors in the chain of command shall be held accountable for inadequate reports and analysis. As a result, all supervisors shall be subject to corrective action or discipline for the accuracy and completeness of after action reports completed by other supervisors under their command. Corrective or disciplinary action may include training, demotion, and/or removal from a supervisory position, based on repeated deficient after-action reviews at any level of command.
- 13.8. When, after investigation, a use of force is found to violate policy, the Bureau shall ensure that investigative findings regarding member misconduct are adequately addressed and that appropriate corrective action is taken fairly and expeditiously to resolve the issue.
- 13.9. Where the use of force indicates policy, training, tactical or equipment concerns, the immediate supervisor shall notify, through channels, the Inspector and the Chief, who shall

ensure that the Bureau timely conducts necessary training and/or resolves the policy, tactical or equipment concern.

- 13.10. The Chief, or designee, and the PSD have the discretion to reassign a use of force investigation to the Detective Division or any Bureau supervisor, thereby taking it out of the after action chain of command as described.
- 13.11. The Inspector's Office shall routinely audit force-related After Actions and the associated reports. The Chief, or a designee, shall refer to the Inspector's audits to identify trends related to deficient reporting and investigations or problematic use of force patterns. The Chief, or a designee, shall take appropriate corrective action throughout the chain of command when use of force reports, force investigations conducted by supervisors, force-related After Action reports and Command reviews are not completed in accordance with Bureau policy and practices.
- 13.12. The RU Manager shall ensure that the narrative section of the use of force After Action report is forwarded to the Multnomah County District Attorney's Office in a timely fashion.
- 13.13. Additional Supervisor Reporting Responsibilities.
  - 13.13.1. An on-duty supervisor shall respond to the scene of all negligent or unintentional discharges of a firearm and notify the Detective Division, which will assume investigative responsibility, except at Bureau authorized training events, where no death occurs. At training events, as long as no death occurs, the Training Division shall have responsibility for investigating and reporting the negligent discharge.
  - 13.13.2. An on-duty supervisor shall investigate all negligent or unintentional discharges of less lethal weapons and document the incident in an after action report.

**History:**

- Originating Directive Date: 01/01/14
- Last Revision Signed: 07/21/17
  - Effective Date: 08/19/17
    - Rescind Directive 940.00, After Action Reports
    - Rescind Directive 1020.00, Firearms
    - Rescind Directive 1030.00, Baton Use
    - Rescind Directive 1040.00, Aerosol Restraints
    - Rescind Directive 1050.00, Less Lethal Weapons and Munitions
    - Rescind Directive 1051.00, Electronic Control Weapon System
- Next Review Date: 01/21/18

*Pursuant to City Council substitute Ordinance 892 dated Aug 9, 2017, the Bureau will not enact this version of Directive 1010.10.*

## **1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures**

### **Refer:**

- ~~Graham v. Connor, 490 U.S. 386 (1989)~~
- ~~ORS § 146.095, Investigation~~
- ~~ORS § 161.015, General Definitions~~
- ~~Directive 315.30, Satisfactory Performance~~
- ~~Directive 330.00, Internal Affairs, Complaint Intake and Processing~~
- ~~Directive 333.00, Criminal Investigations of Police Bureau Employees~~
- ~~Directive 416.00, Post Officer Involved Deadly Force/Temporary Altered Duty~~
- ~~Directive 630.45, Emergency Medical Custody Transports~~
- ~~Directive 630.50, Emergency Medical Aid~~
- ~~Directive 640.10, Crime Scene Procedures~~
- ~~Directive 900.00, General Reporting Guidelines~~
- ~~Directive 1010.00, Use of Force~~

### **Definitions:**

- ~~Communication Restriction Order: An order issued during an investigation that prohibits indirect or direct communications between the involved member(s) and witness member(s) regarding the facts of the case. This restriction will be given in writing and will be lifted in writing.~~
- ~~Constitutional Force Standard: Under *Graham v. Connor* and subsequent cases, the federal courts have established that government use of force must comply with the “reasonableness” requirement of the Fourth Amendment. Under this standard, members must choose from the objectively reasonable force options at a scene. See the definition of “objectively reasonable” below.~~
- ~~Deadly Force, also known as Lethal Force: Any use of force likely to cause death or serious physical injury, including the use of a firearm, carotid neck hold, or strike to the head, neck or throat with a hard object.~~
- ~~In-Custody Death: Occurs when a subject dies while under physical control of a member, dies as a direct result of police action, or dies while in police custody. Physical control includes the use of an electronic control weapon system.~~
- ~~Involved Member: For the purposes of this directive, 1010.10, Deadly Force and In-Custody Death Reporting and Investigation Procedures, an involved member is a Bureau member who applies deadly force or directs another to use deadly physical force, or a member who has used physical force, or a member who assumes control care or custody of a subject who dies in police custody.~~
- ~~Negligent Discharge: Any unintentional discharge of a firearm by a sworn member that is not due to equipment malfunction.~~

*Pursuant to City Council substitute Ordinance 892 dated Aug 9, 2017, the Bureau will not enact this version of Directive 1010.10.*

- ~~Objectively Reasonable: The reasonableness of a use of force is based on the totality of circumstances known by an officer at the time of action or decision making. It shall be judged from the perspective of a reasonable officer on the scene, without the clarity of 20/20 hindsight after the event has concluded. The measure of reasonableness gives consideration to the reality that officers are often forced to make split second decisions in circumstances that are tense, uncertain and rapidly evolving. In the application or evaluation of the use of force, the uses of the terms reasonable and reasonably in this policy refer to objective reasonableness.~~
- ~~Police Action: Any circumstance, on or off duty, in which a sworn member exercises or attempts to exercise police authority.~~
- ~~Serious Physical Injury: As defined in ORS §161.015(8), physical injury which creates a substantial risk of death, or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of function of any bodily organ.~~
- ~~Witness Member: For the purposes of this directive, 1010.10, Deadly Force and In Custody Death Reporting and Investigation Procedures, a witness member is a Bureau member who observes or has firsthand knowledge of the events surrounding an in-custody death or the use of deadly physical force by another member, and other than observing the incident, did not use deadly physical force. Additionally, a member who observes or has firsthand knowledge of the events surrounding a member's direction to another to use deadly force.~~

**Policy:**

1. ~~This policy establishes the specific guidelines and reporting requirements for the reporting and investigation of incidents involving uses of deadly force, death as a result of member use of force, and in-custody deaths.~~
2. ~~The Portland Police Bureau recognizes that a member's use of deadly force or the death of an individual while in police custody requires impartial and timely review. It is the policy of the Bureau that uses of deadly force, death as a result of member use of force, and in-custody deaths, whether on or off duty, be investigated with the utmost thoroughness, professionalism and impartiality so as to determine whether member actions comport with applicable law and Bureau policies and training.~~
3. ~~The Bureau acknowledges that the investigations of these incidents are of critical importance to the involved member, the Bureau, and the community. The Bureau entrusts the Detective Division with the responsibility to conduct the criminal investigation of the incident objectively and thoroughly. Concurrently, the Professional Standards Division (PSD) shall also conduct an administrative review of each such incident. The Detective Division may provide information and/or findings from the criminal investigation to PSD; however, all personnel involved in the administrative review shall keep information garnered from the PSD interview strictly confidential, not permitting disclosure of any such information or its fruits to the criminal investigation.~~

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- ~~4. Bureau members will be afforded all rights guaranteed under the United States and State of Oregon Constitutions throughout the investigation.~~
- ~~5. To insure public accountability, the Bureau is committed to establishing open communication and transparent practices with the public in an effort to cultivate and build community trust; however, information that could jeopardize the integrity of any investigation or any pending prosecution may be withheld from release until it is appropriate or a court of competent jurisdiction directs release.~~
- ~~6. The Bureau understands the impact that these traumatic incidents have on members and acknowledges the need to be sensitive when conducting the required investigation. The Bureau encourages its members to take proactive steps and contact available employee assistance resources following such an event if needed.~~
- ~~7. The Bureau also understands the impact that these traumatic incidents has on the families and communities of those persons upon whom deadly force is used and acknowledges the need to be sensitive when conducting the required investigation. All interviews and conversations with family or community members will be conducted in a manner that strives to be respectful while balancing the need to obtain critical information.~~

**Procedure:**

- ~~1. Pursuant to ORS §146.095 (1), the District Attorney (DA) shall be responsible for the investigation of all deaths following member use of deadly force. In order to maintain the integrity of these death investigations and to avoid any potential conferring of transactional criminal immunity, the Bureau shall not compel statements from involved members without express approval of the DA, except in those exceptional circumstances where information is immediately necessary to protect life and/or ensure the safety of the public. In those circumstances, the Bureau shall ensure that compelled information gathered will not be shared for the purpose of the criminal investigation of the involved member.~~
- ~~2. Duties and Responsibilities Following the Use of Deadly Force Causing Death (within Portland city limits).~~
  - ~~2.1. Involved Member(s):~~
    - ~~2.1.1. The involved member(s) shall notify an on-duty supervisor at the precinct of occurrence. The member(s) shall make the notification(s) as soon as practicable. The involved member(s) shall make it known to the on-scene supervisor that they are an involved member, as defined in this Directive.~~
    - ~~2.1.2. If the on-scene supervisor is unable to obtain from witness members, initial observations and/or other sources (e.g., radio transmissions, Computer Aided Dispatch [CAD], etc.) the necessary information to ensure the safety of the public, the involved member(s) may be required to provide a statement that is limited to information strictly necessary to immediately protect life and ensure public safety, which could include:
      - ~~a) Direction and approximate number of any shots fired by officers and suspects;~~
      - ~~b) Location of injured persons; and~~~~

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- e) ~~Description of at large suspects and their direction of travel, time elapsed since the suspects were last seen, and any suspect weapons.~~
- 2.1.3. ~~After completing any necessary compelled statement, pertaining to the safety of members or the public, the involved member(s) may consult on scene with their union representative and attorney(s).~~
- 2.1.4. ~~Upon request by the Homicide Detective, the involved member(s) may give a voluntary detailed account of the incident and on scene walk through. The member(s) reserves the right to decline the request.~~
- 2.1.5. ~~The involved member(s), unless injured, shall remain at the scene until released by the Detective Division Homicide Sergeant and PSD. The member(s) shall not be held at the scene any longer than necessary.~~
  - 2.1.5.1. ~~Assign a member, other than an involved or witness member to transport each involved member to a location determined by the Homicide Sergeant, when required.~~
- 2.2. ~~Witness Member(s):~~
  - 2.2.1. ~~Witness member(s) shall make it known to the on scene supervisor that they are a witness to the incident, as defined in this Directive.~~
  - 2.2.2. ~~When requested, witness member(s) shall give an on scene statement to the on scene supervisor, providing the necessary information to protect life and ensure the safety of the public. They may also be asked to provide information to ensure that victims, suspects, and witnesses are identified, evidence is located, and provide any information that may be required for the safe resolution of the incident, or any other information as may be required.~~
  - 2.2.3. ~~Witness member(s) shall be subject to on scene interviews to discuss the incident with detectives. They shall provide a full and candid account of the use of force event.~~
  - 2.2.4. ~~All witness member(s), unless injured, shall remain at the scene until released by the Homicide Sergeant and PSD. Witnesses shall not be held at the scene any longer than necessary.~~
  - 2.2.5. ~~Witness member(s) shall be required to submit to an audio recorded interview if requested prior to going off shift. If injured, the witness member will be interviewed when medically stable.~~
- 2.3. ~~On Scene Supervisor:~~
  - 2.3.1. ~~After complying with scene security and first aid provisions as found within Directive 640.10, Crime Scene Procedures, the on scene supervisor shall complete the following:~~
    - 2.3.1.1. ~~Locate and separate all witness and involved members. If the number of individuals to be physically separated is so great to be impractical, a supervisor or detective shall be posted to ensure that no communication regarding the incident takes place.~~
    - 2.3.1.2. ~~Prior to CRO issuance by the Detective Division, admonish involved and witness members not to discuss the incident.~~

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- ~~2.3.1.3. The supervisor shall obtain information that is necessary to protect life and ensure the safety of the public (e.g., outstanding suspects, witnesses, etc.) from witness members and other sources.~~
- ~~2.3.1.4. If the on-scene supervisor is unable to obtain from witness members, initial observations and/or other sources the necessary information to ensure the safety of the public, the arriving supervisor shall require the involved member to provide a statement in order to protect life if it appears that circumstances warrant an immediate statement. The questions shall be limited to information that is strictly necessary to immediately protect life and ensure public safety, which could include:
  - a) Direction and approximate number of any shots fired by officers and suspects;
  - b) Location of injured persons; and
  - e) Description of at-large suspects and their direction of travel, time elapsed since the suspects were last seen, and any suspect weapons.~~
- ~~2.3.1.4.1. Supervisors should convey to the involved member(s) that the compelled information may be necessary to protect life or ensure the safety of the public.~~
- ~~2.3.1.4.2. All questions seeking compelled information should be non-investigatory in nature and should be limited only to those needed to immediately protect life.~~
- ~~2.3.1.4.3. Supervisors shall document the involved member's response and must be able to provide an articulable reason for compelling the statement.
  - 2.3.1.4.3.1. Supervisors shall provide the involved member's compelled statement to PSD in the form of a typed memorandum prior to going off shift.
  - 2.3.1.4.3.2. A supervisor compelling a statement from an involved member under these circumstances shall ensure that any information provided is not shared with criminal investigators.~~
- ~~2.3.1.5. If ambulance transport is required, ensure that someone other than the involved or witness member(s) is assigned to accompany the injured member or community member to the hospital in the ambulance).~~
- ~~2.3.1.6. Ensure that a single entry point into and out of the scene is established and advise the Bureau of Emergency Communications (BOEC) of its location.~~
- ~~2.3.1.7. Ensure that a Crime Scene Log is maintained at the entry point.~~
- ~~2.3.1.8. Ensure that the following required notifications are made in order as listed (when feasible):
  - 2.3.1.8.1. Chain of Command,
  - 2.3.1.8.2. Detective Division Homicide Sergeant (up team),
  - 2.3.1.8.3. PSD,
  - 2.3.1.8.4. Auditor's Office of Independent Police Review (IPR),
  - 2.3.1.8.5. Public Information Officer (PIO),
  - 2.3.1.8.6. Employee Assistance Coordinator, and
  - 2.3.1.8.7. Appropriate bargaining unit representative.~~
- ~~2.3.1.9. Ensure that involved and witness member weapons are retained in their holsters, pending weapon examination by responding detectives.~~

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- ~~2.3.1.10. Instruct involved and witness members to remain at the location until instructed otherwise by the lead detective or until they are released from the location by the Homicide Sergeant and PSD.~~
- ~~2.3.1.11. Assign a member, other than an uninvolved or witness member, to drive each involved member. Witness members may drive themselves. Whenever practical, each involved member and witness member should be transported in a separate vehicle.~~
- ~~2.3.1.12. Upon the homicide detail sergeant and PSD authorized release of the involved and witness members from the scene, supervisors shall:
  - ~~2.3.1.12.1. Instruct members facilitating transport for involved members to proceed to detectives or the designated area, as determined by the Homicide Sergeant.~~
  - ~~2.3.1.12.2. Direct involved and witness members to refrain from changing out of the clothes worn at the time of the incident until they receive specific permission to do so from the Homicide Sergeant~~
  - ~~2.3.1.12.3. Any exceptions to the preceding actions shall only be authorized by the Homicide Sergeant.~~~~
- ~~2.4. Precinct or Division Commander Responsibilities:
  - ~~2.4.1. The precinct or division commander will notify the appropriate Assistant Chief, who will then notify the Chief of Police and the other Assistant Chiefs.~~
  - ~~2.4.2. The Assistant Chief of Services will notify:
    - ~~2.4.2.1. The City Attorney, and~~
    - ~~2.4.2.2. The Training Division.~~~~~~
- ~~2.5. Chief of Police:
  - ~~2.5.1. The Chief of Police will make the appropriate notification to the Commissioner-in-Charge.~~~~
- ~~2.6. Homicide Sergeant Responsibilities:
  - ~~2.6.1. Make the following required notifications:
    - ~~2.6.1.1. Detective Division Command,~~
    - ~~2.6.1.2. On call detectives,~~
    - ~~2.6.1.3. District Attorney's Office,~~
    - ~~2.6.1.4. Medical Examiner's Office, and~~
    - ~~2.6.1.5. Forensic Evidence Division (FED), ensuring criminalists are responding to the scene.~~~~
  - ~~2.6.2. Request assistance from the East County Major Crime Team.~~
  - ~~2.6.3. Respond to and assume responsibility for the scene after receiving a briefing from the supervisor in charge of the scene.~~
  - ~~2.6.4. Identify all involved and witness members and any members with pertinent investigative information.~~
  - ~~2.6.5. Make investigative and scene processing assignments.~~
  - ~~2.6.6. Regularly provide updates to the Detective Division Commander, the PIO, the PSD Captain, and the Chief of Police.~~
  - ~~2.6.7. Ensure CROs are issued pursuant to Section 8 of this directive.~~~~

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- 2.6.8. ~~Ensure all involved weapons have been examined, documented, and retained if necessary; ensure member(s) are supplied with a replacement weapon by Training, if appropriate.~~
- 2.6.9. ~~Ensure a thorough and complete investigation is conducted.~~
- 2.6.10. ~~Ensure the appropriate checklists are used and case notebooks are prepared.~~
- 2.6.11. ~~After consultation with PSD and DA, release the involved and witness members from the scene.~~
- 2.6.12. ~~As soon as practicable, provide transcripts and/or recordings of all witness interviews to PSD.~~

~~2.7. Homicide Detective:~~

- 2.7.1. ~~The Homicide Detective shall conduct a complete and thorough investigation of all in-custody deaths and deadly force incidents. PSD and the Training Division shall use the investigation to determine if the use of deadly physical force was justified, as well as to identify any training or policy concerns regarding the actions of the member(s). The Detective shall:~~
  - 2.7.1.1. ~~Complete the General Offense Report;~~
  - 2.7.1.2. ~~Ensure that scene sketches and diagrams are completed;~~
  - 2.7.1.3. ~~Manage the processing of evidence;~~
  - 2.7.1.4. ~~Request a voluntary statement and on scene walk through from the involved member;~~
  - 2.7.1.5. ~~Conduct complete and thorough interviews of witness members and supervisors to ensure that all applicable areas are covered. All interviews wherein material facts of the case are discussed shall be audio recorded in their entirety;~~
  - 2.7.1.6. ~~Upon approval from the DA, conduct complete and thorough interviews of involved members to ensure that all applicable areas are covered. All interviews wherein material facts of the case are discussed shall be audio recorded in their entirety;~~
  - 2.7.1.7. ~~Direct the assigned criminalists to collect all evidence including involved members' uniforms and all outer clothing (including duty belt) and retain as evidence until instructed otherwise by the lead detective of the investigation. This instruction should be relayed to any uninvolved member that accompanied an injured involved member to the hospital.~~
  - 2.7.1.8. ~~Conduct interviews of civilian witnesses. The interview shall be audio recorded in its entirety, unless the witness declines. The refusal shall be documented in writing;~~
  - 2.7.1.9. ~~Collect and submit all firearms involved in the incident, including Special Emergency Reaction Team (SERT) weapons, to the Oregon State Crime Lab for appropriate testing, and document the condition of the firearm(s) (as found), to include serial number, rounds in chamber and number of rounds in each magazine;~~
  - 2.7.1.10. ~~Collect and submit any other weapons (e.g., conducted electrical weapon [CEW]) used (or attempted to be used) in the application of force to the Property Evidence Division (PED);~~
  - 2.7.1.11. ~~Conduct an investigative follow up;~~

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- ~~2.7.1.12. Ensure that their reports include detailed information related to any weapons involved, accounting for all shots fired, their point of impact, if ascertainable, and any injury or damage to property;~~
  - ~~2.7.1.13. Complete a Summary Report and case notebooks to include all transcripts of all recorded statements;~~
  - ~~2.7.1.14. Submit all cases involving the use of deadly force resulting in death and in-custody deaths to the DA for review;~~
  - ~~2.7.1.15. Coordinate and consult with the District Attorney's Office throughout the investigation; and~~
  - ~~2.7.1.16. Complete the investigative case book.~~
  - ~~2.7.1.17. Refer to Section 2.9. of this directive for information regarding reporting responsibilities. Exceptions to witness members providing on-scene statements must be limited to those situations where the number of witnesses or the complexity of the crime scene make it necessary for the investigators to obtain additional details of the incident prior to beginning an interview, and the detective must justify any such exceptions. Those exceptions must be approved by the Detective Division Commander.~~
- ~~2.8. Professional Standards Division (PSD) On-Scene Responsibilities:~~
- ~~2.8.1. After consulting with the DA, PSD may compel statements from witness members at any time~~
  - ~~2.8.2. The PSD Captain, or designee, shall accompany the IPR Director, or designee, at the scene and assist in gathering information from Detectives, when applicable (i.e., when IPR elects to respond to the scene).~~
  - ~~2.8.3. The PSD Captain, or designee, shall coordinate with the Homicide Sergeant to authorize the release of involved and witness members from the scene.~~
  - ~~2.8.4. The PSD Investigator shall refer to Section 6 of this Directive for review responsibilities and Section 2.9. of this directive for information regarding reporting responsibilities.~~
- ~~2.9. Use of Deadly Force (Resulting in Death) Reporting:~~
- ~~2.9.1. For use of deadly force resulting in death, the more comprehensive administrative review is intended to capture all information required in a use of force report. Therefore, in those cases, involved members are not required to complete a use of force report until after the criminal investigation concludes.~~
  - ~~2.9.2. Members who use deadly force as described in Section 10 in Directive 1010.00, Use of Force, shall be asked by detectives to provide a voluntary on-scene walk-through and interview.~~
    - ~~2.9.2.1. If the member agrees to provide a voluntary on-scene walk-through and interview, the detective shall ensure that all information that would otherwise be necessary to thoroughly complete a use of force report is captured over the course of the voluntary interview and walk-through. Detectives shall include the pertinent information (a full and candid account) in their written report, pursuant to Directive 1010.00, Use of Force.~~

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- ~~2.9.2.2. Members who decline to provide a voluntary statement may be compelled to provide a detailed account of the incident. In these circumstances, the PSD investigator shall ensure that all information that would otherwise be necessary to thoroughly complete a use of force report is captured over the course of the administrative review interview. The investigator shall not complete the narrative section of the report, and shall instead include the pertinent information (a full and candid account) in their written report, in lieu of the involved member completing the use of force report, pursuant to Directive 1010.00, Use of Force.~~
- ~~2.9.3. For Category I force incidents where the Detective Division completes a criminal investigation and PSD completes an administrative review, the completion of a force After Action report is not required because the administrative review serves this function.~~
- ~~3. Duties and Responsibilities Following the Use of Deadly Force and in-custody deaths (outside of Portland city limits):~~
  - ~~3.1. Involved Member Responsibilities:~~
    - ~~3.1.1. Notify the jurisdiction of occurrence, and~~
    - ~~3.1.2. Notify an on-duty patrol supervisor if the involved member's supervisor is not present.~~
    - ~~3.1.3. Members shall also follow the requirements listed in Section 2.1. of this directive.~~
  - ~~3.2. Supervisor Responsibilities:~~
    - ~~3.2.1. Supervisors will make notification as required of the on-scene supervisor. Refer to Section 2.3.1.8. of this directive.~~
  - ~~3.3. Detective Division Commander, or designee:~~
    - ~~3.3.1. Shall contact the investigating agency to provide an offer of assistance.~~
  - ~~3.4. Professional Standards Division:~~
    - ~~3.4.1. The PSD Captain, or a designee, shall:~~
      - ~~3.4.1.1. Act as the Bureau's liaison;~~
      - ~~3.4.1.2. Respond to the scene, if feasible;~~
      - ~~3.4.1.3. Accompany the IPR Director, or designee, at the scene and assist in gathering information from Detectives, when applicable (i.e., when IPR elects to respond to the scene);~~
      - ~~3.4.1.4. After consulting with the county of incident's DA, may compel statements from witness members at any time;~~
      - ~~3.4.1.5. Coordinate with the Homicide Sergeant to authorize the release of involved and witness members from the scene; and~~
      - ~~3.4.1.6. Refer to Section 6 of this Directive for review responsibilities and Section 2.9 of this directive for information regarding reporting responsibilities.~~
- ~~4. Deadly Force/In-Custody Death by an On-Duty Member from Another Jurisdiction (within Portland city limits):~~
  - ~~4.1. Bureau Procedures:~~

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- ~~4.1.1. The agency in charge of investigating deaths in Multnomah County is the DA. If the Bureau investigates, the Homicide Sergeant shall be the supervisor and detectives shall be responsible for the investigation, and shall follow the procedures in Section 2.7.~~
- ~~4.2. The Bureau's On-Scene Supervisor shall:~~
  - ~~4.2.1. Comply with scene security and first aid provisions as found within Directive 640.10, Crime Scene Procedures;~~
  - ~~4.2.2. Ensure that an on-duty supervisor of the member's agency is notified;~~
  - ~~4.2.3. Locate and separate all involved and witness members. If the number of individuals to be physically separated is so great to be impractical, a supervisor or detective shall be posted to ensure that no communication regarding the incident takes place;~~
  - ~~4.2.4. Prior to CRO issuance, admonish involved and witness members not to discuss the incident; and~~
  - ~~4.2.5. Obtain information that is necessary to protect life and ensure the safety of the public (e.g., outstanding suspects, witnesses, etc.) from witness members and other sources.~~
- ~~4.3. Witness members who are members of the Bureau shall follow the procedures set forth in Section 2.2. of this directive.~~
- ~~4.4. Unless there is some immediate need to seize weapons, the involved peace officer shall be allowed to keep their weapon(s) until their agency supervisor arrives. Upon arrival, the agency supervisor shall take custody of the firearm, and if necessary, surrender it to the investigator.~~
- ~~4.5. The Homicide Sergeant shall notify the appropriate Bureau Precinct Commander and Assistant Chief.~~
- ~~5. Duties and Responsibilities Following the Use of Deadly Force Not Causing Death.~~
  - ~~5.1. Involved Member(s):~~
    - ~~5.1.1. Shall follow the procedures set forth in Section 2.1. of this directive.~~
  - ~~5.2. Witness Member(s):~~
    - ~~5.2.1. Shall follow the procedures set forth in Section 2.2. of this directive.~~
  - ~~5.3. On-Scene Supervisor:~~
    - ~~5.3.1. Shall follow the procedures set forth in Section 2.3. of this directive.~~
  - ~~5.4. Detective Division:~~
    - ~~5.4.1. The Detective Division shall conduct a complete and thorough investigation of the deadly force incident. The investigation shall be used to determine justification for the use of deadly physical force, as well as to identify any training or policy concerns regarding the actions of the member(s). The Detective shall:~~
      - ~~5.4.1.1. Ensure CROs are issued pursuant to Section 8 of this directive.~~

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- ~~5.4.1.2. Complete a General Offense Report;~~
  - ~~5.4.1.3. Ensure that scene sketches and diagrams are completed;~~
  - ~~5.4.1.4. Manage the processing of evidence;~~
  - ~~5.4.1.5. Conduct interviews of involved members, witness members and supervisors using the interview checklist to ensure that all applicable areas are covered. All interviews wherein material facts of the case are discussed shall be audio recorded;~~
  - ~~5.4.1.6. Conduct interviews of civilian witnesses. The interview shall be audio recorded in its entirety, unless the witness declines. The refusal shall be documented in writing;~~
  - ~~5.4.1.7. Collect and submit all firearms involved in the incident, including SERT weapons, used in the incident to the Oregon State Crime Lab for appropriate testing, and document the condition of the firearm(s) (as found), to include serial number, rounds in chamber and number of rounds in each magazine;~~
  - ~~5.4.1.8. Collect and submit any other weapons (e.g., CEW) used (or attempted to be used) to PED;~~
  - ~~5.4.1.9. Ensure that their reports include detailed information related to any weapons involved, accounting for all shots fired, their point of impact, if ascertainable, and any injury or damage to property;~~
  - ~~5.4.1.10. Complete a Summary Report and case notebooks to include all transcripts of all recorded statements;~~
  - ~~5.4.1.11. Submit all cases involving intentional use of deadly force and negligent discharge resulting in injury to another, to the DA for review; and~~
  - ~~5.4.1.12. Complete the investigative case book.~~
- ~~5.5. Professional Standards Division:~~
- ~~5.5.1. PSD shall conduct a concurrent administrative review of the incident in accordance with Bureau policy, including the steps identified in Section 6.~~
  - ~~5.5.2. After consultation with the DA, PSD shall schedule a compelled interview with the involved member.~~
  - ~~5.5.3. The PSD Investigator shall refer to Section 2.9. of this directive for information regarding reporting responsibilities.~~
- ~~5.6. Use of Deadly Force (Not Resulting in Death) Reporting.~~
- ~~5.6.1. After consultation with the DA, the PSD Captain shall have the discretion to direct the involved member to complete a use of force report.
    - ~~5.6.1.1. Pursuant to Directive 1010.00, Use of Force, members shall complete the use of force report immediately after being instructed to do so.~~~~
  - ~~5.6.2. For Category I force incidents where the Detective Division completes a criminal investigation and PSD completes an administrative review, the completion of a force After Action report is not necessary.~~
  - ~~5.6.3. All members shall follow Directive 1010.00, Use of Force, and Directive 900.00, General Reporting Guidelines, regarding report writing.~~
  - ~~5.6.4. Members shall adhere to all reporting and review requirements set forth in Directive 1010.00, Use of Force, for force resulting in hospital admission or force involving more than one simultaneous intentional CEW application.~~

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~~5.6.5. The involved member's supervisor shall complete the use of force After Action report for all force resulting in hospital admission and/or force involving more than one simultaneous intentional CEW application.~~

~~6. PSD Review.~~

~~6.1. PSD shall conduct administrative reviews concurrently with criminal investigations, if any, concerning the same incident.~~

~~6.2. PSD shall interview all witnesses to the use of force.~~

~~6.2.1. After consulting with the DA, PSD may compel statements from witness members at any time.~~

~~6.3. PSD shall conduct a compelled interview with the involved member where appropriate in the administrative review.~~

~~6.3.1. For deadly force incidents that result in death, PSD shall schedule a compelled interview with the involved member upon receipt of written notification from the DA that all criminal proceedings have concluded.~~

~~6.3.2. For deadly force incidents that do not result in death, PSD shall schedule a compelled interview with the involved member, after consulting with the DA.~~

~~6.4. PSD shall consider all available relevant evidence, including recordings by Homicide Detectives or others of witness and involved member interviews; physical evidence; and documentary evidence.~~

~~6.5. In accordance with PSD SOP #7, PSD shall conduct an administrative review of the incident, to include the events preceding the use of deadly force, the decision making surrounding the use of deadly force, the management/supervision of the incident, and the events following the use of deadly force to determine whether member actions were consistent with policy and if there are possible policy deficiencies.~~

~~6.6. PSD shall provide its investigation materials to the appropriate RU manager.~~

~~6.7. The lead PSD investigator shall present the results of the administrative review of the deadly force incident to the Police Review Board, as appropriate.~~

~~6.8. The PSD investigator shall refer to Section 2.9. of this directive for information regarding reporting responsibilities.~~

~~6.9. RU Manager Responsibilities:~~

~~6.9.1. The RU manager shall utilize PSD's investigation materials to draft a findings memorandum to determine whether member actions were within policy. These findings shall be presented to the Police Review Board.~~

~~7. Training Review.~~

~~7.1. Training Division Responsibilities:~~

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- 7.1.1. Upon completion of the criminal investigation and administrative review, the Training Division shall conduct a review of the incident and an analysis of the investigative findings to determine whether member actions were consistent with training and/or those actions reflect training deficiencies.
  - 7.1.2. The Training Division shall then provide its review to the involved member's RU manager.
- 7.2. ~~RU Manager Responsibilities:~~
- 7.2.1. The RU manager shall discuss the Training Division's review with the involved member.
8. ~~Communication Restriction Order (CRO).~~
- 8.1. ~~The Detective Division Commander, or their designee, shall issue CROs to all witness and involved officers immediately following the incident. The CRO process shall include:~~
    - 8.1.1. ~~Issuing CROs to all witness and involved members;~~
    - 8.1.2. ~~Providing copies of the CROs to a Detective Homicide Detail supervisor;~~
    - 8.1.3. ~~Providing copies of the CROs to the PSD Captain; and~~
    - 8.1.4. ~~Documenting that the CROs were issued and to whom.~~
  - 8.2. ~~The CRO shall prohibit direct or indirect communications between any and all involved and witness officers regarding the facts of the event.~~
  - 8.3. ~~Members under a CRO may communicate with any of the following regarding the case:~~
    - 8.3.1. ~~Representatives from PSD,~~
    - 8.3.2. ~~Representatives from the Independent Police Review Division (IPR);~~
    - 8.3.3. ~~Representatives from the City Attorney's Office,~~
    - 8.3.4. ~~Union representative,~~
    - 8.3.5. ~~Attorney,~~
    - 8.3.6. ~~Spouse,~~
    - 8.3.7. ~~Clergy person,~~
    - 8.3.8. ~~Doctor,~~
    - 8.3.9. ~~Psychotherapist, and/or~~
    - 8.3.10. ~~Any other person recognized by a court with jurisdiction in the State of Oregon as having a protected relationship entitling them to privileged communications.~~
  - 8.4. ~~Union representatives shall not communicate to either involved members or witness members what has been told to them by any individual they are representing.~~
  - 8.5. ~~The CRO shall continue, unless extended further, until the conclusion of the Grand Jury or, if no Grand Jury is convened, until a disposition is determined by the DA; and until the conclusion of the administrative review. The CRO shall remain in effect until revoked in writing by the PSD Captain.~~

*Pursuant to City Council substitute Ordinance 892 dated Aug 9, 2017, the Bureau will not enact this version of Directive 1010.10.*

- ~~8.6. On a case by case basis, the Chief of Police, or designee, may extend a CRO issued in a criminal investigation or an administrative review, for reasons including, but not limited to the case being under review by another federal, state, or local law enforcement agency.~~
- ~~8.7. Members not involved in a deadly force or in custody death incident shall not communicate with a member who has been designated as an involved or witness member about factual aspects of the investigation, unless authorized to do so, and until the involved or witness member is no longer under a CRO.~~
- ~~8.8. Members may speak with Traumatic Incident Committee members. Members should avoid directly discussing factual aspects of the incident with Traumatic Incident Committee members. Traumatic Incident Committee members are directed to steer the conversation away from the facts and focus instead on the emotional issues confronting the member(s).~~
- ~~9. Release of Information.~~
- ~~9.1. The Bureau shall provide timely and appropriate information when members use deadly force. However, the Bureau must weigh the public's right to know with what is in the best interest of the investigation. As a general rule, the Bureau shall release, as soon as possible, accurate information which shall not compromise an ongoing investigation or the potential prosecution of a suspect(s). Absent a specific and lawful request, the Bureau shall not release the prior criminal history or prior law enforcement booking photo of the individuals involved in a member's use of deadly force or in-custody death.~~
- ~~9.2. The PIO, who reports directly to the Chief of Police, shall be called out to all use of deadly force incidents. As soon as possible, the PIO shall coordinate with the Detective Division Sergeant in charge of the investigation, the DA's on scene representative, and a union representative of the involved member(s) to determine what information shall be released.~~
- ~~9.3. During the course of the criminal investigation, the Detective Division will coordinate the release of information through the PIO. The Chief of Police is ultimately responsible for approving information available for release.~~
- ~~9.4. The Bureau also has a responsibility to ensure that community members; in particular the families of community members directly affected by the use of deadly force, along with members of the Bureau, receive timely information.~~
- ~~9.5. The Chief of Police will convene a briefing the next business day after the incident.~~
- ~~9.6. To provide timely and accurate information, the Detective Division should direct the Crisis Response Team (CRT) to assign a liaison to assist in providing information to members of the community directly affected by a use of deadly force. CRT shall not release information that has not been approved for release by the Homicide Sergeant in~~

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charge of the investigation and the DA. Internal communication shall be coordinated through the Chief of Police.

~~9.7. As soon as possible, the PIO shall release to the public the available information.~~

~~Typically, the information shall include:~~

~~9.7.1. Nature of the call,~~

~~9.7.2. Time of the call and member arrival,~~

~~9.7.3. Number of members directly involved in the use of deadly force,~~

~~9.7.4. Years of service of members directly involved in the use of deadly force,~~

~~9.7.5. General information about the community member(s) involved in the deadly force encounter; and~~

~~9.7.6. Other information as determined by the Detective Division and the DA.~~

~~9.8. The identity of Bureau member(s) involved in the incident shall be released within twenty four hours, absent a credible security threat. In incidents involving the death of a Bureau member, or member of the public, the identity will be released with approval of the Detective Division and the Medical Examiner's Office.~~

~~9.9. All public records requests for any material relating to investigations shall be routed to the Records Division for standard public records request routing.~~

~~9.10. Because the Bureau has an interest in continuing to provide the community with information in the days that follow the use of deadly force, the Detective Division will continue to coordinate the release of other relevant information with the PIO.~~

**History:**

- ~~• Originating Directive Effective: 9/6/01~~
- ~~• Last Revision Effective: 7/20/17~~
- ~~• Next Review Date: 7/20/18~~

## **1020.00, Weapons Administration**

### **Refer:**

- DIR 1010.00, Use of Force

### **Definitions:**

- **Aerosol Restraints:** A hand-held aerosol spray containing organic capsaicin oils derived from pepper plants, which affects individuals for several minutes, often incapacitating them. Most effects dissipate within 30-40 minutes.
- **Ammunition:** Projectiles, along with their fuses and primers, which can be fired from a firearm.
- **AR-15:** A Bureau approved and issued carbine rifle.
- **Baton:** An authorized instrument designed for blocking, jabbing, striking, or to apply control holds while engaged in a police action. Also known as an impact weapon not intended or likely to cause death of a subject.
- **Certified Armorer (CA):** A person who has successfully completed armorer training in a weapons system currently used by Bureau personnel, and is designated as an approved armorer by the Training Division.
- **Certified Instructor (CI):** A person who has successfully completed a Bureau or, when the Bureau does not have a certification process, an accredited instructor school in a weapons system and is currently designated as a weapons system instructor by the Training Division. Certified instructors may only qualify members in the weapons system in which they are certified.
- **Conducted Electrical Weapon (CEW):** A weapon, including Tasers, designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and overrides the subject's voluntary motor responses.
- **Firearm:** A weapon, by whatever name known, which is designed to expel a projectile by the action of powder.
- **Impact Munitions:** Bureau-issued munitions that are used by patrol officers and are fired from a launcher. Impact munitions are not intended to produce deadly effects, but just as with other impact weapons, they can cause serious injury or death. Although this munition is designed to be less lethal, it is not to be considered non-lethal.
- **Less Lethal Launcher:** A Bureau-issued launcher capable of delivering impact munitions. Bureau issued shotguns designated as less lethal launchers will be conspicuously marked.
- **Primary Firearm:** A Bureau-approved firearm (Glock 17, 19, 26) carried on duty.
- **Secondary Firearm:** A Bureau-approved firearm other than the primary firearm that is carried in a concealed manner as a backup firearm.

- Shotgun: A Bureau-approved, 12-gauge, pump-action shotgun.

**Policy:**

1. This policy governs the authorization, safe management, secure storage, inspection, maintenance and issuance of Bureau-approved weapons.
2. Members are required to exercise due caution at all times while loading, unloading, and transporting firearms. Safety is paramount, and PPB shall hold its members to the strictest of standards regarding firearms safety.
3. Directive 1010.00, Use of Force, governs the use of all Bureau-issued weapons and any other weapon used in the exercise of police powers.
4. Members in probationary status and members who return from unarmed status are required to successfully complete firearm training and qualify for duty firearms and other service firearms before they are permitted to carry and use firearms.

**Procedure:**

1. Safe keeping and handling:
  - 1.1. Vehicle storage of primary and secondary firearms, shotguns, AR-15s, and less lethal launchers.
    - 1.1.1. Any firearms issued by the Bureau or personally owned shall not be left in any City vehicle without securing the weapon with one of the following Bureau-approved security devices: 1) locked firearm storage box secured to the vehicle; 2) chain attached to the trunk of the vehicle specifically made for securing firearms; 3) secondary trunk lock approved by the Bureau Fleet Manager; or 4) vehicle's weapon locking mount. Simply locking the firearm in the trunk of a City vehicle without a secondary lock is prohibited.
    - 1.1.2. When a weapon is secured in a vehicle, members shall lock their vehicles when the vehicle is left unattended. If a member is unable to lock the vehicle under exigent circumstances, members shall make reasonable efforts to have the vehicle locked as quickly as possible.
    - 1.1.3. If a vehicle has a weapon secured inside but is towed, parked in a service garage, or absent duty need, is left unattended for an unreasonable period of time, members shall immediately notify an on-duty supervisor, who shall ensure that the weapon is returned to the precinct armory.
    - 1.1.4. If electrical or mechanical failure renders the vehicle's weapon mounting lock inoperable, the immediate supervisor shall ensure that the vehicle is placed in the most secure facility available at the precinct and the member shall notify a morning relief supervisor in writing of the need to remove the weapon.
    - 1.1.5. The shotgun and less lethal shotgun shall be secured with an approved security device in the vehicle after ensuring the action is closed on an empty chamber, safety on.
    - 1.1.6. The AR-15 shall be secured with an approved security device in the vehicle after ensuring that the weapon is in the carry condition (bolt forward on an empty chamber, loaded magazine in the magazine well and the selector in the safe position).

- 1.2. A member shall not carry a firearm if they are impaired by intoxicants to a noticeable or perceptible degree.
  - 1.3. Members shall not unnecessarily brandish any firearm.
  - 1.4. Members shall not store any firearm on Bureau premises, except where the place of storage is locked.
  - 1.5. Members shall follow the rules and regulations of correctional facilities regarding carrying and storing of firearms.
  - 1.6. Members shall exercise due care in securing and storing their weapons while off duty to prevent unauthorized access.
2. Firearms.
    - 2.1. All sworn members shall carry one Bureau-authorized primary firearm, whether in uniform or in plain-clothes assignments.
      - 2.1.1. While in uniform, members are authorized to carry:
        - 2.1.1.1. Glock 17, 9mm parabellum.
        - 2.1.1.2. Glock 19, 9mm parabellum.
      - 2.1.2. While in a plain-clothes assignment, members are authorized to carry:
        - 2.1.2.1. Glock 17, 9mm parabellum.
        - 2.1.2.2. Glock 19, 9mm parabellum.
        - 2.1.2.3. Glock 26, 9mm parabellum.
      - 2.1.3. All Glock firearms carried on duty shall be black in color.
      - 2.1.4. The Responsibility Unit (RU) Manager may grant an exception to this firearm requirement based on investigative needs (e.g., undercover).
      - 2.1.5. Firearms shall be loaded and unloaded in the designated safe areas within each precinct or division as prescribed by the Training Division.
    - 2.2. All sworn members in a uniform assignment shall use the standard Bureau-issued holster specified by the Training Division while on duty.
      - 2.2.1. Members can submit a written request to use a personal holster to the Chief of Police through channels. If a waiver is granted, the requesting member is responsible for the purchase, repair, maintenance, and replacement of the non-issued holster. The member's RU Manager shall notify the Training Division of the waiver.
    - 2.3. Primary Firearm.
      - 2.3.1. Issuance.
        - 2.3.1.1. Primary duty firearms (Glock firearms) shall be issued to all newly-appointed sworn members.
          - 2.3.1.1.1. Members may request an authorization letter from the Training Division to purchase a firearm for duty use from an outside vendor. The letter shall comply with all state and federal requirements.

- 2.3.1.2. Sworn peace officers who serve as Portland Fire Bureau Arson Investigators may be issued a primary duty firearm upon request. All Bureau weapons qualifications requirements must be satisfied prior to issuance.
- 2.3.2. Modifications.
  - 2.3.2.1. Only certified armorers and certified firearms instructors shall modify or perform repairs on Glocks carried on duty.
  - 2.3.2.2. All on-duty firearms shall have the Glock-recognized standard trigger pull weight of 5.5 pounds. PPB prohibits modification of trigger pull, weight above or below this standard.
  - 2.3.2.3. Non-factory sights, such as high visibility or night-sights, are authorized at the member's expense and must be installed by a certified instructor or certified armorer. The member shall qualify with the non-factory sights prior to carrying the firearm on duty. Lasers and red dot sights (e.g., GLOCK MOS) are not authorized.
  - 2.3.2.4. Slip-on or adhesive-type grips that are of a non-permanent nature are authorized at the member's expense.
  - 2.3.2.5. Members may have the following Glock factory parts installed by a certified firearms instructor or certified armorer: extended slide stop lever, extended magazine release, and a +2 magazine floor plate.
  - 2.3.2.6. The slide, frame, or internal parts of the firearm shall not be modified in any way, except in the course of repair by a certified firearms instructor or certified armorer.
  - 2.3.2.7. Only Glock factory parts shall be used in the firearm, except as outlined in 2.3.2.3.
- 2.4. Secondary Firearm.
  - 2.4.1. Within the parameters of this policy, members may choose to carry one secondary firearm, but are not required to do so.
    - 2.4.1.1. A member may request to carry more than one secondary firearm. All requests to carry additional secondary firearms must be submitted in writing to the Chief of Police.
  - 2.4.2. Any secondary firearms are subject to approval of the Chief or their authorized designee before any member of this Bureau may use or possess such firearm while on duty. It shall be the responsibility of the member to submit the firearm to the certified firearms instructor designated by the Training Division for inspection prior to being carried. Thereafter, the firearm shall be subject to periodic inspection by the Training Division.
  - 2.4.3. No firearm will be carried on duty that has not been inspected by a certified firearms instructor or qualified armorer for that class of firearm, of the Training Division pursuant to Directive 1021.00, Weapons Qualifications.
  - 2.4.4. The firearm must be a double action revolver or a semi-automatic pistol. Additionally, the revolver or pistol must have a minimum capacity of at least five rounds. The revolver or pistol shall be a .38 caliber, .380 acp caliber, or 9mm parabellum.
  - 2.4.5. Secondary firearms shall be carried in a holster and in a concealed manner.
  - 2.4.6. No modification shall be made to any secondary firearm unless approved and inspected by a certified instructor.
  - 2.4.7. The approved secondary firearm should be used only when the primary sidearm is not available or is inoperable.

3. Shotgun.

- 3.1. Only shotgun qualified members shall carry a Bureau-issued shotgun, except under exigent circumstances.
- 3.2. While on duty, members shall only use Bureau-issued shotguns.
- 3.3. When not in use, the shotgun shall be stored in a Bureau-approved armory in the following conditions: action open, safety on, and verified to have an empty chamber and unloaded magazine tube.
- 3.4. When checking out a shotgun from the armory or secure storage area, members shall conduct a function check to ensure the shotgun is working properly.
- 3.5. At the beginning of their shifts, members shall load the magazine tube of the shotgun with only 00 buckshot ammunition or only rifled slug ammunition. Members shall not have a combination of these two rounds loaded in the magazine tube. Members shall load the side saddle with spare rounds of the type not loaded in the magazine tube. If tactically feasible, members should utilize the most appropriate type of ammunition based on the totality of the circumstances.
- 3.6. At the beginning and end of shift, the shotgun shall be loaded and unloaded in the designated safe areas within each precinct or division as prescribed by the Training Division.
- 3.7. A Shotgun Issue Log (Precinct/Division Equipment) shall be maintained by the precinct to record the daily issue and check-in of shotguns. The log shall be reviewed during each shift by a supervisor.
- 3.8. Non-uniformed sworn members may check out shotguns from a precinct with the permission of a precinct supervisor.

4. AR-15.

- 4.1. Only AR-15 qualified members shall carry Bureau-issued and personally assigned AR-15s, except under exigent circumstances.
- 4.2. While on duty, members shall only use Bureau-issued AR-15s.
- 4.3. When checking out their issued AR-15 from the armory or secure storage area, members shall conduct a function check to ensure the AR-15 is working properly.
- 4.4. The AR-15 shall be loaded into the carry condition and unloaded in the designated safe areas within each precinct or division as prescribed by the Training Division.
- 4.5. When not in the carry condition, all AR-15s shall be unloaded with a yellow safety block inserted into the magazine well, the action locked open, and with the selector in the safe position.

4.6. An AR-15 may be transported to a sworn member's residence the night before and night after an approved training session, with approval from the RU Manager. The AR-15 must be transported directly to and from the residence, the training site, and RU. The AR-15 shall not, under any circumstances, be left unattended in a personal vehicle. While in transit, members shall adhere to the vehicle storage procedures outlined in this directive. Members shall store the AR-15 in a lockable rifle case or a lockable gun safe while at the residence.

5. Less Lethal Weapons.

5.1. Conducted Electrical Weapon (CEW).

- 5.1.1. Only trained and certified members are authorized to carry a CEW. Members shall refer to 1021.00, Weapons Qualifications, for additional guidance on certification requirements.
- 5.1.2. Certified members shall only carry Bureau-issued CEWs and cartridges.
- 5.1.3. All members of the rank of officer and sergeant in a uniform assignment shall carry a CEW, unless waived by the overseeing Assistant Chief. All members at the rank of Lieutenant and above may carry a CEW, if preferred. For all other units, the carrying of a CEW remains at the discretion of the RU Manager.
- 5.1.4. CEWs shall be carried in a position on the member's body such that it can be drawn with the support-hand of the member.
- 5.1.5. Members shall exercise due care in securing and storing their CEW while off duty to prevent unauthorized access.

5.2. Aerosol Restraints.

- 5.2.1. Members shall be trained in the use of aerosol restraints prior to issuance.
- 5.2.2. All members in a uniform assignment shall carry Bureau-issued aerosol restraints in a manner such that the tool is immediately available for use, if necessary.

5.3. Less Lethal Launchers and Munitions.

- 5.3.1. Only members trained on and certified in Bureau-issued less lethal launchers and impact munitions are authorized to carry and use those tools in their designated capacity.
- 5.3.2. While on duty, members shall only use Bureau-issued less lethal launchers and impact munitions.
- 5.3.3. Members who are certified to carry the less lethal launcher and non-patrol specialty munitions may carry those munitions on patrol when authorized by the RU Manager.
- 5.3.4. Sworn members at the rank of officer and who are certified less lethal shotgun operators in uniform assignments shall carry a less lethal shotgun in their patrol vehicle when their primary duty is call response.
  - 5.3.4.1. Sworn members at the rank of sergeant and above who are certified less lethal shotgun operators in uniform assignments may carry a less lethal shotgun.
- 5.3.5. Less lethal launchers shall be loaded with Bureau-issued impact munitions stored on the launcher at designated safe areas. Certified members are required to visually and physically inspect each specialty round during loading.
  - 5.3.5.1. Members of the Special Emergency Response Team (SERT) and the Rapid Response Team (RRT) may be required to load less lethal munitions in unique circumstances outside of the designated safe areas; therefore, the provisions of this section do not apply to these assignments.

- 5.3.6. Specialty Munitions.
    - 5.3.6.1. Only trained and certified members are authorized to carry specialty munitions. Members shall refer to 1021.00, Weapons Qualifications, for additional guidance on certification requirements.
    - 5.3.6.2. Certified members shall only carry Bureau-issued specialty munitions.
    - 5.3.6.3. All certified members of the rank of officers and sergeants shall carry specialty munitions when authorized to do so in the performance of their duties as required by that specialty unit and/or at the discretion of the incident commander.
    - 5.3.6.4. Specialty munitions shall be stored in a safe and secure manner in the less lethal weapon's supplied carrier, if available.
  - 5.3.7. While on duty, members are responsible for securing the less lethal launcher during transport in patrol vehicles.
  - 5.3.8. Additional Guidelines for the 12-Gauge Less Lethal Launcher.
    - 5.3.8.1. Members are prohibited from carrying any standard 12-gauge lethal munitions while also carrying a 12-gauge less lethal weapon.
    - 5.3.8.2. 12-gauge launchers shall only be loaded with Bureau-issued specialty munitions, which are stored on the launcher.
    - 5.3.8.3. Members, other than those at the rank of sergeant and above, are not authorized to possess any additional 12-gauge specialty munitions beyond those stored on the less lethal launcher Bureau-issued side saddle carrier and/or butt stock carrier.
    - 5.3.8.4. When not deployed, the 12-gauge less lethal launcher shall be secured in a vehicle after ensuring the action is closed on an empty chamber and the safety is on.
  - 5.3.9. Additional Guidelines for the 40 mm Less Lethal Launcher.
    - 5.3.9.1. When not deployed, the 40 mm launcher shall be secured in a vehicle with an empty chamber.
    - 5.3.9.2. The launcher shall have two specialty munitions carried on the butt stock, and the member operator shall have a Training-approved carrier loaded with at least five additional rounds of 40 mm specialty munitions at the beginning of their shift.
    - 5.3.9.3. Additional 40 mm specialty munitions shall only be stored in a Training-approved carrier.
  - 5.3.10. Members who no longer wish to carry a less lethal weapon can request de-certification by routing a memorandum through channels to the Training Manager.
  - 5.3.11. All less lethal launchers and ammunition shall be removed from vehicles and stored in their respective Responsibility Unit's armory when not in use or at the end of shift.
- 5.4. Less Lethal Impact Weapons (Batons).
    - 5.4.1. Members shall receive training on the PR-24 side-handled baton and the asp (straight expandable baton). These are the only batons that are authorized for general member use.
      - 5.4.1.1. Specialty units (e.g., Mounted Patrol Unit [MPU] and RRT) shall receive training on long baton use.
    - 5.4.2. The PR-24 side-handled baton is issued to every sworn member, but shall only be used in specific tactical situations (e.g., riot or crowd control) as directed by an incident commander.
    - 5.4.3. The asp baton is issued as standard equipment to all sworn members. All sworn members in a uniform assignment of the rank of officer and sergeant (other than MPU)

shall carry the asp baton in a manner such that the tool is immediately available to use, if necessary.

6. Specialized Weapons.

6.1. The Chief may authorize, in writing, specialized firearms and ammunition for use by designated units (e.g., SERT) that are not authorized for all members. Only members assigned to these designated units, while in that assignment, may use the special firearms authorized for that unit.

6.2. If a member leaves a specialized unit, it is that member's responsibility to return all specialized equipment and weapons within five working days to the unit that issued the equipment. The supervisor must affirmatively acknowledge that all weapons and equipment are returned by the departing member. This may be done by Bureau email copied to their respective RU Manager.

7. Ammunition.

7.1. Members shall only use Bureau-issued and authorized ammunition while on duty.

7.2. All magazines for the primary firearm shall be loaded to capacity.

7.2.1. Members are required to carry at least two magazines in addition to the magazine in their primary firearm while in uniform.

7.2.2. Members are required to carry at least one magazine in addition to the magazine in their primary firearm while in a plain-clothes assignment, unless exempted by their RU Manager.

7.3. Members shall be issued new duty ammunition at least annually.

7.4. The Training Division shall determine which ammunition is authorized, subject to the approval of the Chief of Police.

8. Training.

8.1. The Training Division shall approve training and certification courses for every Bureau-issued or approved weapon. Members shall refer to 1021.00, Weapons Qualifications, for additional guidelines.

9. Weapons Cleaning and Maintenance.

9.1. After discharging a weapon on duty for qualifications, training, practice, or in the official course of duty, members shall clean their weapons(s) in a manner consistent with Bureau standards prior to returning to duty unless exigent circumstances exist. Supervisors shall ensure that members are provided an adequate opportunity to thoroughly clean their weapons(s) in a manner that is consistent with Training Division prescribed standards.

9.2. When weapons become contaminated, fouled, thoroughly wet, or dirty while on duty, members shall clean the weapon as soon as possible, or prior to the end of the shift. The Training Division shall provide gun-cleaning equipment at the Justice Center and Training Complex ranges. Precinct Commanders shall provide gun-cleaning equipment at the precinct.

- 9.3. Firearms that are the property of the Bureau shall be repaired only by a certified armorer in the repair of that specific type of firearm, or a qualified contractor retained by the Bureau.
- 9.4. Any firearm authorized by the Bureau to be carried on-duty or off-duty and found to be malfunctioning or needing service shall not be carried and shall be promptly presented to a certified armorer or the Training Division for inspection. Any firearm determined to be in need of service or repair during an inspection will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is rendered serviceable.
- 9.5. All maintenance and repair documentation is the responsibility of the Training Division and that Division will keep on file such documentation for each firearm.

## 10. Responsibility, Accountability, and Control.

### 10.1. Members.

- 10.1.1. Members are responsible for maintaining individually issued weapon(s). Members shall store their weapons in a secure manner.
- 10.1.2. Members carrying the CEW are responsible for checking operability at the start of each shift. Members shall also perform, at a minimum, weekly spark tests to ensure weapon functionality.

### 10.2. Supervisors.

- 10.2.1. Supervisors are responsible for monitoring issuance procedures for weapons that are not assigned on an individual basis. Supervisors shall determine when members are required to carry additional weapons, such as the shotgun and less lethal launcher.
- 10.2.2. Supervisors are authorized to carry additional impact munitions. All 12-gauge impact munitions will be in original factory packaging for distribution to certified members during a specific tactical incident.
- 10.2.3. Supervisors are responsible for securing all weapons (shotguns, AR-15s, less lethal weapons) for members who have been injured or are unable to return their weapon(s) to the armory.

### 10.3. RU Managers.

- 10.3.1. RU Managers are responsible for the security, inventory, storage, issuance, cleaning, maintenance, and auditing of weapons assigned to their RU. Weapons include shotguns, AR-15s, and less lethal weapons (CEWs, launchers).
  - 10.3.1.1. RU Managers shall ensure that armories established at their units meet the minimum following requirements:
    - 10.3.1.1.1. Maintained in accordance with Directive 60.60, Standard Operating Procedures (SOPs). SOPs will address storage protocols of weapons, the maintenance of a sign-in/sign-out log, and requirements of members prior to signing weapons in or out;
    - 10.3.1.1.2. Managed by a certified armorer responsible for inventorying and servicing weapons;
    - 10.3.1.1.3. Restricted entry to authorized members only;
    - 10.3.1.1.4. Prohibit the storage of loaded weapons; and

- 10.3.1.1.5. Ensure weapons are locked when not in use.
- 10.3.2. Any firearm, less lethal launcher or CEW in need of reassignment shall be transferred to the Training Division and entered into the Police Bureau's inventory.
- 10.3.3. RU Managers are responsible for ensuring that shotguns and less lethal launchers within their RU or assigned to members within their RU are inspected, at a minimum, annually.
  - 10.3.3.1. RU Managers shall ensure shotgun and less lethal launcher inspections include, but are not limited to, an examination of the cleanliness and proper lubrication of the weapon, a review for damage or unauthorized modifications, verification of the weapon's serial number, test firing, and assessment of the weapon's sighting.
  - 10.3.3.2. The Tactical Operations Division (TOD) Manager, or designee, is responsible for ensuring that specialty weapons within SERT are inspected, at a minimum, annually.
  - 10.3.3.3. The RRT Manager, or designee, is responsible for ensuring that specialty weapons within the unit are inspected, at a minimum, annually.
- 10.3.4. RU Managers shall have the discretion to issue and assign less lethal weapons to any certified members in the RU.
- 10.3.5. RU Managers shall ensure that less lethal launchers are assigned in a manner that optimizes their continuous availability throughout their precinct for emergency deployments.
- 10.3.6. RU Managers shall ensure that their assigned members are provided with the opportunity to comply with the weapons cleaning and maintenance section of this directive.
- 10.3.7. RU Managers shall ensure that the provisions of this directive are followed within their RU. Members shall refer to Directive 1200.00, Inspections, Maintenance, Responsibility, and Authority for additional guidance.

#### 10.4. Training Division.

- 10.4.1. The Training Division Manager is responsible for procuring and controlling the Bureau's inventory of all weapons, including allocations, inspections, and maintenance.
- 10.4.2. The Training Division shall procure, inventory, track and issue CEWs and cartridges, and less lethal launchers and munitions to other units.
- 10.4.3. The Training Division Manager shall approve all modifications to primary firearms, shotguns, AR-15s, and less lethal launchers. Members shall not make any modifications without written authorization from the Training Division Manager unless otherwise allowed within this directive.
- 10.4.4. The Training Division Manager shall evaluate completed less lethal munitions database reports. When a weapon no longer meets Bureau requirements or serves Bureau purposes, the Training Division will dispose of the weapon in accordance with Directive 660.10, Property and Evidence Procedure.

#### 11. Member Process to Purchase Bureau-Issued Firearms.

- 11.1. All firearm sales shall comply with applicable federal and state regulations.
- 11.2. Sworn members (who have completed background checks) may acquire certain Bureau-approved weapons from the Training Division. A retiring member with a City-issued firearm

may purchase that firearm at the original price paid by the City, plus any applicable Federal Excise Tax (FET).

11.3. Any member, reserve officer, or arson investigator who requests to purchase a firearm upon leaving the Bureau must receive approval from PSD to check for open Internal Affairs (IA) cases. If there are no open IA cases, and PSD agrees to approve the purchase, PSD will sign off on the separation checklist allowing the member to purchase their firearm. If the member has open cases, the cases shall be reviewed on an individual basis to determine eligibility to purchase a firearm.

12. Off duty firearms.

12.1. The carrying and using of firearms by members while off duty based on their authority as law enforcement officers is permitted by the Chief of Police. The Chief of Police may rescind the privilege should circumstances dictate (e.g., administrative leave, disciplinary action).

12.2. Members shall carry their Bureau identification at all times when armed and in public, whether on duty or off duty.

13. Forfeit and replacement of firearms.

13.1. When a member's firearm is confiscated for investigative purposes, the member shall be provided a Bureau-owned firearm that is the same make, model, and caliber for temporary use.

**History:**

- Originating Directive Date: 09/06/01
- Last Revision Signed: 07/21/17
  - Effective Date: 08/19/17
    - Replaces 1020.00, Firearms
    - Rescind Directive 1030.00, Batons
    - Rescind Directive 1040.00, Aerosol Restraints
    - Rescind Directive 1050.00, Less Lethal Weapons and Munitions
    - Rescind Directive 1051.00, Electronic Control Weapon System
- Next Review Date: 01/21/18

## **1021.00, Weapons Qualifications**

### **Refer:**

- DIR 1010.00, Use of Force

### **Definitions:**

- **Aerosol Restraints:** A hand-held aerosol spray containing organic capsaicin oils derived from pepper plants, which affects individuals for several minutes, often incapacitating them. Most effects dissipate within 30-40 minutes.
- **Ammunition:** Projectiles, along with their fuses and primers, which can be fired from a firearm.
- **AR-15:** a Bureau-approved and issued carbine rifle.
- **Baton:** An authorized instrument designed for blocking, jabbing, striking, or to apply control holds while engaged in a police action. Also known as an impact weapon not intended or likely to cause death of a subject.
- **Certified Armorer (CA):** A person who has successfully completed armorer training in a weapons system currently used by Bureau personnel, and is designated as an approved armorer by the Training Division.
- **Certified Instructor (CI):** A person who has successfully completed a Bureau or, when the Bureau does not have a certification process, an accredited instructor school in a weapons system and is currently designated as a weapons system instructor by the Training Division. Certified instructors may only qualify members in the weapons system in which they are certified.
- **Cold qualification:** A successful attempt at shooting a passing score on the designated Bureau-approved qualification courses as prescribed by the Training Division without prior attempts or practice shots within the preceding twelve hours with that specific weapon.
- **Conditionally qualified:** A member is conditionally qualified when, after failing on the first attempt to fire their primary or secondary firearm, they achieve a passing score on the second attempt. There is no conditionally qualified provision for the shotgun and AR-15.
- **Conducted Electrical Weapon (CEW):** A weapon, including Tasers, designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and overrides the subject's voluntary motor responses.
- **Day:** Calendar day
- **Firearm:** A weapon, by whatever name known, which is designed to expel a projectile by the action of powder.

- Firearms training: Instruction received from a Bureau CI for the purpose of skill enhancement. This may also include instructors from outside organizations who contract with the Bureau to provide approved firearms training. The Training Division shall be responsible for the approval of non-Bureau instructors.
- Function check: The ability of a member to describe and demonstrate the function and safety features on an AR-15, shotgun, and less lethal launcher.
- Impact Munitions: Bureau-issued munitions that are used by patrol officers and are fired from a launcher. Impact munitions are not intended to produce deadly effects, but just as with other impact weapons, they can cause serious injury or death. Although this munition is designed to be less lethal, it is not to be considered non-lethal.
- Less Lethal Launcher: A Bureau-issued launcher capable of delivering impact munitions. Bureau-issued shotguns designated as less lethal launchers will be conspicuously marked.
- Primary firearm: A Bureau-approved firearm (Glock 17, 19, 26) carried on duty.
- Remedial Training: Mandatory instruction determined through consultation with the Training Division and provided by a CI to a member that has failed to cold qualify on a primary firearm, AR-15, shotgun, or less lethal weapon.
- Secondary firearm: A Bureau-approved firearm other than the primary firearm that is carried in a concealed manner as a backup firearm.
- Shotgun: a Bureau-approved, 12-gauge, pump-action shotgun.
- Specialty Munitions: Bureau-issued munitions that are used by specialty units and are not intended to produce deadly effects, but just as with other impact weapons, they can cause serious injury or death. Although this munition is designed to be less lethal, it is not to be considered non-lethal.

**Policy:**

1. The Portland Police Bureau requires its sworn members to be properly trained on and proficient in the use of authorized weapons. This policy establishes the qualification and certification procedures for Bureau-authorized weapons. The authorization to carry and use any Bureau-approved weapon and munition is contingent upon a member's ability to qualify on a designated qualification course approved or developed by the Training Division.
2. The Bureau recognizes the inherent risks in operating weapons and expects its sworn members to exercise due caution at all times while handling, transporting, and using weapons and munitions. Safety is paramount, and the Bureau shall hold all members to the strictest of standards regarding weapon safety.
3. The Bureau authorizes the Training Division to approve specialty unit qualification standard operating procedures (SOPs) or provide weapons training and instruction to its sworn

members to enhance their skills. Members who have completed the Bureau's Instructors School are authorized to conduct training and/or certification courses within their designated field, although the Training Division may seek outside instructors as needed.

4. Directive 1010.00, Use of Force, governs the use of all weapons in a member's performance of duty.

**Procedure:**

1. Qualification:

- 1.1. Members shall qualify during tri-annual qualification range periods for patrol-used/Operations-based primary, secondary and less lethal weapons, except the asp baton, CEW and aerosol restraints.

- 1.2. Sworn Member Responsibilities.

- 1.2.1. Primary Firearms.

- 1.2.1.1. Members are required to qualify at a Training Division-approved firearms qualification range. These members shall have their firearm(s) inspected by a certified instructor (CI) or certified armorer prior to firing each weapon for qualification, and prior to being authorized to carry each firearm.

- 1.2.1.2. Members must fire a passing score on the designated primary firearms qualification course as prescribed by the Training Division.

- 1.2.1.3. Members that fail to cold qualify must immediately attempt to conditionally qualify on the same course. This condition requires the member to receive remedial training. The member must successfully complete a cold qualification within twenty-one days after firing the conditionally qualified score. All members must be qualified by the end of the qualification period, regardless of when they conditionally qualified.

- 1.2.1.3.1. If a member fails to shoot a passing score on their attempt to conditionally qualify, they are considered non-qualified and must notify their immediate supervisor before leaving the range. Members shall be immediately re-assigned to administrative duties where contact with the public is unlikely. Remedial firearms training, as determined through consultation with the Training Division, shall be arranged by the member's supervisor.

- 1.2.1.3.2. During the non-qualified member's remedial firearms training, the member shall have an opportunity to fire a qualification course for score (record). Members who fire a passing score shall be conditionally qualified and shall be required to cold qualify. All members must be qualified by the end of the qualification period regardless of when they conditionally qualified.

- 1.2.1.4. If a member's qualifications lapse while they are on an absence from duty, they must immediately re-qualify upon return to duty.

- 1.2.1.5. During tri-annual qualification ranges, Special Emergency Reaction Team (SERT) members may qualify with their primary firearms during SERT

training days and forward their qualification documentation to the Training Division.

1.2.2. Secondary Firearm.

1.2.2.1. Members who carry a secondary firearm must qualify and pass under the Training Division's prescribed firearm qualification course during each tri-annual qualification period.

1.2.2.2. Members who fail to conditionally qualify on their second attempt will not be authorized to carry that weapon as a secondary firearm until they successfully complete a cold qualification.

1.2.2.3. Any member who fails to cold qualify on their first attempt with a secondary firearm is required to receive remedial training and re-qualify cold.

1.2.3. AR-15.

1.2.3.1. Members who have successfully completed AR-15 training and are certified by the Training Division shall be issued a Bureau-owned AR-15. All certified AR-15 operators shall qualify with their weapon during all qualification periods.

1.2.3.2. Prior to carrying an AR-15, members shall conduct a function check and fire a passing score on the designated AR-15 qualification course, as prescribed by the Training Division.

1.2.3.3. Members who fail to pass the function check or fail to cold qualify with a passing score during the qualification period will no longer be qualified. Members are required to immediately notify their supervisor and are not authorized to carry or deploy an AR-15. Members in a non-qualified status must conduct remedial training and pass another cold qualification and safety function check within twenty-one days. Failure to qualify may lead to the revocation of the member's AR-15 certification by the Training Division Manager.

1.2.3.4. Any member who fails to cold qualify on their first attempt with an AR-15 is required to receive remedial training and re-qualify cold.

1.2.4. Shotgun.

1.2.4.1. All members shall fire a passing score on the designated shotgun qualification course as prescribed by the Training Division during each tri-annual qualification period.

1.2.4.2. All members must perform a function check during each qualification period. Those who do not successfully demonstrate the function check must do so within twenty-one days.

1.2.4.3. If a member fails to shoot a passing score or fails to pass the function check, they shall not carry a shotgun on duty. Members are still required to conduct remedial training and successfully complete another cold qualification within twenty-one days.

1.2.4.4. Any member who fails to cold qualify on their first attempt with a shotgun is required to receive remedial training and re-qualify cold.

1.2.4.5. Members who have not yet attended the Department of Public Safety Standards and Training (DPSST) basic academy or the PPB Advanced Academy are exempt from the function check requirement. However,

while a member is attending either academy it is a requirement that they become proficient with the shotgun and must successfully qualify and perform the function check prior to graduation.

- 1.2.5. Less Lethal Launchers.
  - 1.2.5.1. Certified members are required to re-qualify during the designated time by completing the approved course of fire. Re-qualifying members shall have their weapon inspected by a CI or certified armorer, prior to firing.
  - 1.2.5.2. Members must pass a function check and the designated qualification course prescribed by the Training Division in order to be considered re-qualified.
  - 1.2.5.3. Members who do not pass shall be considered non-qualified and must return on another day to attempt re-qualification. Members shall not carry their less lethal launcher on patrol until they have been re-qualified.
  - 1.2.5.4. Members who do not re-qualify on the less lethal launcher shall not carry or deploy the weapon. Failure to do so may lead to the revocation of the member's less lethal launcher certification by the Training Division Manager.
  - 1.2.5.5. Any member who fails to cold qualify on their first attempt with a less lethal launcher is required to receive remedial training and re-qualify cold.
  - 1.2.5.6. For specialty unit qualification courses, assigned members shall refer to the unit's SOPs.
- 1.2.6. Specialty units, such as SERT and Rapid Response Team (RRT), shall conduct qualification assessments of their specialty munitions annually, at a minimum. Members shall refer to the specialty units' SOPs for additional guidance on qualification requirements.
- 1.2.7. Pregnancy Qualification.
  - 1.2.7.1. Members who are pregnant, under the advice of their physician, may elect to forego qualifying for the duration of their pregnancy. Members shall qualify prior to returning to full duty.
- 1.2.8. Nursing Mother's Qualification.
  - 1.2.8.1. Members who are on a nursing mother's contract shall qualify prior to returning to full duty.
  - 1.2.8.2. Upon request, CIs shall assist the member with reducing potential lead exposures (e.g., loading/unloading, weapons maintenance, and range cleaning).
- 1.2.9. CEW.
  - 1.2.9.1. In order to be qualified to carry or use a CEW while on duty or in the exercise of police powers, each member must qualify with the CEW prior to being authorized to carry the tool. Members shall qualify annually with the CEW.
- 1.2.10. Aerosol Restraints and Batons.
  - 1.2.10.1. Members shall receive initial training on aerosol restraints and batons and must demonstrate proficiency prior to issuance of each tool. There are no ongoing qualification requirements for aerosol restraints or batons; however, a supervisor can request remedial training if deemed necessary.
- 1.2.11. Specialty Munitions:

- 1.2.11.1. Members shall qualify annually with specialty munitions prior to being authorized to use.
  - 1.2.12. A member who fails to qualify on a firearm shall not be allowed to carry that firearm, either on duty or off duty, when based on their authority as a police officer until they have fired a passing score on a qualification course as prescribed by the Training Division.
- 1.3. Members shall refer to Directive 1020.00, Weapons Administration, for additional guidance regarding administrative information for each weapon.
2. Training Division Manager (or designee) Responsibilities.
  - 2.1. Develop the qualification course for firearms, less lethal launchers, CEWs, and AR-15s with the exception of specialty units. The Training Division shall approve qualification and training plans outlined in specialty unit SOPs.
  - 2.2. Arrange tri-annual qualifications by establishing times and locations for each RU. Print and distribute a Qualification Special Order no later than twenty-one days prior to the start of the qualification range.
  - 2.3. Print and distribute a Non- Qualified report to all RU Managers fifteen days prior to the beginning of the open range (time during the last two weeks of the qualification period) and at the conclusion of the qualification/recertification range.
  - 2.4. Maintain Bureau-wide weapons qualification standards and member training and certification records for auditing purposes.
  - 2.5. Provide each unit/division with copies of requalification records for assigned members.
  - 2.6. Ensure all members' qualification, certification, and refresher training records are maintained and up-to-date regarding applicable firearms and less lethal weapons.
  - 2.7. Ensure members returning from Leave of Service (LOS) comply with firearms qualification requirements upon notification from the Personnel Division.
  - 2.8. Ensure curriculum/courses, techniques and procedures used by the Training Division adhere to the provisions in this directive.
  - 2.9. The Training Division and Professional Standards Division shall provide notice to the Chief of Police of any proposed changes to CEW certification rules or SOPs.
  - 2.10. Qualification Instructor Responsibilities.
    - 2.10.1. CIs shall review and follow all Special Orders regarding tri-annual qualification periods.

- 2.10.2. CIs are authorized to and shall conduct official qualification courses (for record) and firearms training. CIs are responsible for the completion and distribution of the appropriate Qualification Record.
  - 2.10.3. CIs shall provide and conduct remedial training courses for the primary and secondary firearms, AR-15, and shotgun.
    - 2.10.3.1. Upon completion of remedial training, CIs shall document the training in a memo and forward through channels to the Training Division Manager for members in the following conditions:
      - 2.10.3.1.1. Conditionally qualified with a primary or secondary firearm
      - 2.10.3.1.2. Non-qualified with a primary firearm
      - 2.10.3.1.3. Non-qualified with the AR-15
      - 2.10.3.1.4. Non-qualified with the shotgun
  - 2.10.4. CIs shall provide and conduct training, qualification and re-qualification courses for the less lethal launcher and less lethal munitions.
  - 2.10.5. CIs shall inspect all weapon systems prior to firing for qualification to determine if the weapon is clean, lubricated, not damaged, or altered beyond the Training Division-approved modifications.
  - 2.10.6. CEW instructors shall provide and conduct training, certification, and re-qualification courses for use of a CEW.
  - 2.10.7. A qualified instructor shall provide and conduct training courses for use of any baton.
  - 2.10.8. A qualified instructor shall provide and conduct training courses for use of aerosol restraints.
3. Personnel Division Manager (or a designee) Responsibilities.
- 3.1. Notify the Training Division when members have returned from LOS.
  - 3.2. May exempt members from qualifications based on their physical condition (with a physician's written excuse), current job assignment (unarmed, no contact with the public), or other exceptional circumstances. Exemptions must be given in writing with a copy forwarded to the Training Division Manager.
4. RU Managers Responsibilities.
- 4.1. Request training and certification to the Training Division once course dates have been announced.
  - 4.2. Ensure that all members assigned to their RU qualify during the qualification period as prescribed by the Training Division.
  - 4.3. When applicable, provide a memo to the appropriate Branch Chief for any member who fails to qualify with their primary firearm within twenty-one days of their initial cold qualification. The memo shall document all training and qualification attempts and recommend a course of action (e.g., work plan, personnel action, fitness for duty, etc.).

- 4.4. Provide a memorandum to the member's Branch Chief if a member fails to cold qualify with a weapon other than the primary firearm within twenty one days after the first failed attempt. The memorandum shall document all training and qualification attempts and shall recommend a course of action.
- 4.5. Ensure that members who are non-qualified immediately qualify prior to contact with the public. A non-qualified member can neither work in an armed capacity, nor have contact with the public.
- 4.6. Submit written documentation for re-certification exceptions or alternative re-certification arrangements to the Training Division. Any exception or arrangement will be evaluated on a case-by-case basis after consultation with the impacted member, their RU Manager, or designee, and the Training Division Manager, or designee.
- 4.7. May excuse staff and undercover officers from carrying firearms and/or extra ammunition if these items are not appropriate for the assignment. These exceptions, however, should be kept to a minimum and must be documented.
- 4.8. Maintain a Weapons Storage and Issuance Procedures SOP that details safekeeping and storage measures for RU assigned firearms.

**History:**

- Originating Directive Date: 07/21/17
  - Effective Date: 08/19/17
- Next Review Date: 01/21/18

Directive 900.00 – Website comments 6/30/17-7/14/17

Date	Individual	Comment
7/13/17		<p><b>DIRECTIVE 900.00 GENERAL REPORTING GUIDELINES</b></p> <p>As far as we can tell, this Directive is partially taken from and meant to replace Directive 910.00 Field Reporting Handbook. We did not comment on that Directive in 2014 when it was last reviewed.</p> <p>Among the items we noticed here:</p> <p>--Section 1.2.1.3, requiring reporting of an off-duty incident, calls for that report to be written "as soon as practical," where the old policy required it to be written within four hours of occurrence.</p> <p>--Section 1.2.1.4 now says officers' reports have to include "all exculpatory information," which is a step in the right direction toward more professional police work.</p> <p>--Similarly, Section 1.2.1.5 asks that officers use "common, everyday language" and avoid "jargon and acronyms."</p> <p>It's quite confusing that in Section 2.3 "Privatization of Reports" and Section 3 on Public Records, the term "privatized" is used to mean "make confidential." Privatization refers to taking public institutions and put them in the hands of private corporations. We urge the Bureau to find a better word for the practice.</p>

Directive 905.00 – Website comments 6/30/17-7/14/17

Date	Individual	Comment
7/13/17		<p><b>DIRECTIVE 905.00 NON-FORCE AFTER ACTION REPORTING</b></p> <p>This is a new Directive, taken in part from old Directive 940.00 After Action Reports.</p> <p>As noted above, the previous requirement for completing an After Action Report following "crowd events" (940.00 Section 1.6.1) is now limited to when there is a "significant civil disturbance requiring an organized police response." This is far too narrow a scope, since, as PCW has documented, the PPB does not always record individual uses of force at protest actions (such as the woman who was pepper sprayed outside of City Hall on October 12, 2016). Therefore such reports should be required any time police show up uninvited and/or use any kind of force during an event involving a crowd.</p> <p>PCW appreciates that the Bureau has clarified when supervisors should send Reports to Training and Internal Affairs "when there are training deficiencies or claims of misconduct implicated in the report that cannot be resolved in the after action" (Section 2.1). This is much better than the old language "when appropriate" (940.00 Section 2.1). It's not clear, though, why finding "policy, training, tactical or equipment concerns" should only be sent to the Assistant Chief (Section 3.2), and no longer to Professional Standards (940.00 Section 5.2). PSD is also taken out of the provision allowing for use of force investigations to be reassigned from a supervisor (Section 3.4). The best reading on this is that the Assistant Chief might assign the investigation to PSD, but the only specific option listed in the Directive is the Detective Division.</p> <p>It is good that failure to complete After Action Reports may result in discipline, which is now specified to include "training, demotion, and/or removal from a supervisory position" (Section 3.1).</p>
7/1/17		<p>Clarification needs to be made regarding SERT, CNT and EDU After Action requirements by a supervisor. Currently a supervisor in one of those areas does the After Action and not a patrol supervisor who activates them. This directive does not clarify that and not just states supervisor.</p>

Directive 910.00 – Website comments as of 8/30/14, close of Universal Review

Directive	Date	Individual	Comment
910.00	8/1/14		<p>1.2 remove reference to colored paper</p> <p>5.1.2.1 we no longer use FCR cards, it goes on a FCR report form</p> <p>will Investigation reports still be called that in MRE and ReJin?</p>
910.00	8/1/14		<p>1.1.2 seems to lack a supervisor exemption should circumstances dictate an inability to write and deliver a report within four hours after occurrence</p>
910.00	8/2/14		<p>This directive should be reviewed by office of primary responsibility to bring in line with the new reporting system (MRE). The terminology has changed, as well as reporting requirements when there are several victims of the same criminal act.</p>
910.00	8/4/14		<p>This directive needs to be brought up to date with current report writing practices. For one example, we do not use different color paper reports.</p>
910.00	8/11/14		<p>If we are ordering them to write a report within 4 hours of an off duty incident then are we paying them overtime. I would suggest they contact an on-duty-supervisor who will then advise if they need to write the report within that time period. This change can save the Bureau unintended overtime expenses.</p>
910.00	8/11/14		<p>2.6.1.4.4. Clearances are written on the Special Report form. The type of clearance should be entered. The Details section of the report must include the name, sex, race and date of birth of the arrested person; arrest information such as charge, warrant number, etc.; and recovered property information such as type and value of recovered property.</p> <p>There is no such thing as a Special Report in MRE.</p> <p>4. Photographs:</p>

			<p>4.1. Members who obtain photographs (not evidence) during his/her investigations may enclose them with the original report. However, the following guidelines will be followed:</p> <p>4.1.1. Members will advise, in the narrative portion of his/her report, that a photograph is included.</p> <p>4.1.2. Shift supervisors will place all reports that include a photograph in a separate envelope and forward it to the Records Division (Records).</p> <p>4.1.3. Records will number both the report and the photograph and forward the photograph, along with a copy of the report, to the investigating detail.</p> <p>4.2. Members who obtain photographs will be entered as evidence, must process them in the normal manner in accordance with Directive 660.10, Property and Evidence Procedure.</p> <p>This should mention DIMS. This is the way we process photographs taken by Officers.</p> <p>5.1.3. Processing of FCR Cards.</p> <p>5.1.3.1.FCR cards are processed much as other police reports. Therefore, it is extremely important that appropriate boxes are filled in completely and legibly written. The subject’s PPDS record must be updated from the information on the card and a PPDS record established for those FCRs that do not presently have a PPDS number.</p>
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Directive 910.00 – Website comments as of 8/30/14, close of Universal Review

		<p>5.1.3.2. Precincts and divisions should handle FCR cards as they do other reports. Supervisors must check for accuracy and compliance with the purposes of the FCR card. FCR cards should be expeditiously sent to Records on a daily basis, as a large batch at one time creates unanticipated workloads for Records.</p> <p>5.1.3.3. PPDS numbers should be entered in the Other # box on the FCR. This will allow Records to put PPDS numbers on the FCR Log; however, Records does not have time to retrieve these numbers from the computer, so if members do not enter PPDS numbers on the FCR, they will not appear on the FCR Log.</p> <p>5.1.3.4. The Detective Division requests that members use the FCR to pass on valuable information they have acquired by observing known criminal subjects with associates and/or vehicles. Current information on associates and vehicles of known criminals is very important to investigators. This information can be gathered by observation when contact is not practical or legal. Basic information as to the subject’s complete name and date of birth is necessary for the FCR procedure.</p> <p>With the implementation of MRE, FCRs are now called Street Check.</p>
910.00	8/15/14	<p>This directive contains out of date language now that MRE is the primary field reporting tool. For example, we no longer have "investigative reports," only "general offense" or "arrest booking" reports.</p>
910.00	8/22/14	<p>1.1.2. - s/b .....deliver it directly or forward it, via district car, .....</p> <p>1.2 - end the section after "using the appropriate form." colored paper is</p>

Directive 910.00 – Website comments as of 8/30/14, close of Universal Review

			<p>no longer used.</p> <p>2.1.1. - Report writers should be using the electronic reporting system, not writing reports in longhand unless absolutely necessary. Wasn't that change in progress? This may also affect 2.1.2.</p> <p>Section 2.5 was valid under old UCR reporting guidelines, but will change going forward, and Records needs to be involved in a re-write of that at some point.</p> <p>2.6.1.4.4. The Special Report is being discontinued - won't be an option in RegJIN. Clearances are written on Supplemental Reports.</p> <p>3.2. Supervisor approval is different in the electronic world.</p> <p>4. - No photographs to Records. Needs a rewrite.</p> <p>5. - The Field Contact Report (FCR) is no more. These are written as Street checks in the electronic world.</p> <p>5.1.3.3 hasn't been correct for decades. Section 5 needs a rewrite.</p> <p>This directive is "not ready for prime time" yet. I'd suggest it be taken down and sent to Records.</p>
910.00	8/27/14		<p>Section 1.2 - see comments from 930.00 for more details regarding the line "All pertinent information will be entered in the member's duty notebook." This is slightly different than how 930.00 is written and changes notebook entry requirements for officers. For simple reports, officers may not need to</p>

			<p>write all the pertinent info in their notebook because it can be entered directly into a report form.</p> <p>Last line of 1.2 mentions using appropriate colored paper for reports. Is this still necessary since we are transitioning (some day) to all electronic reports?</p> <p>2.4.1 says a summary is needed if "the report will be more than one page long." Especially with the new report writing system (MRE), basic "face page" information may extend well beyond the first page of a report. Summaries seem more necessary when the narrative itself extends beyond a page. Could we update this section to say a summary is needed when the NARRATIVE of a report is longer than 1 page?</p> <p>"2.6.1.4 Clearances Generally:" is not part of "2.6.1 There are only three (3) ways that a case may be cleared." 2.6.1.4 should probably be 2.6.2 which would then change 2.6.1.4.1 through 2.6.1.4.4 to 2.6.2.1 through 2.6.2.4.</p> <p>2.7 doesn't follow the short title pattern of 2.6 and others before it. This might be better listed as "2.7 Person arrested:" then list the rest of that paragraph under 2.7.1.</p> <p>Is "4. Photographs" section current with the new DIMs/ID/FED processes? The only examples of non-evidence photos I can think of would be related to a missing person and lost property. Would this process still be followed? If it is current, could some examples be listed?</p> <p>4.2 might need a "that" or "which" added between "photographs" and</p>
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			<p>"will". The current wording states "Members who obtain photographs will be entered as evidence, must process them in the normal manner..."</p> <p>Section "5. The Field Contract Report" should say "Contact".</p> <p>Throughout section 5, FCR cards are mentioned multiple times. It was my understanding the cards are no longer allowed and were removed from precincts. FCR's are all now electronic reports. 5.1.3.2 might need to be removed altogether since the cards are no longer used. A FCR Log is also mentioned. Is this still in use?</p> <p>"5.1.3 Processing of FCR Cards" might more appropriately be numbered as 5.2 - if the section is still needed.</p> <p>5.1.3.4 might be better numbered as 5.1.4 (or 5.3 if above suggestion is used). It does not relate to "5.1.3 Processing of FCR cards". It talks more about what the FCR Cards are used for</p>
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Directive 920.00– Website comments as of 10/26/16 through 11/24/16, close of Universal Review

Directive	Date	Individual	Comment
920.00	11/15/16		Section 4.1 & 4.3 The reference to making copies and attaching the Request for Additional Information form to the "original" report appear to be holdovers from the era of paper reports. The directions and terminology needs to be updated for RegJin and MRE as "original" reports are no longer accepted in non electronic form.
920.00	11/21/16		There are significant changes for Records that need to be made to this Directive since we are now using RegJIN. Unfortunately I will not have this completed by the 11/24/16 deadline. I hope to have this completed shortly after the holiday.

Directive 930.00 – Website comments as of 8/30/14, close of Universal Review

Directive	Date	Individual	Comment
930.00	8/1/14		<p>under section 5 for formatting:</p> <p>it is likely more important now with our vCad system and ReJin to record the call # and case # (if applicable) rather than call times</p>
930.00	8/4/14		<p>section 4.1 - for many years now it has been impossible to comply with this set of directives. Current notebooks are dark blue with gold embossed badge (a wasted expense in my opinion). When the notebook covers were flat light blue we could write on them, now they are dark blue and we can NOT write on the cover. At one point we had white covers on the notebooks and those did not work either because they were plastic coated and a pen would not work on them. Bring back a light colored notebook with a pale, flat, uncoated cover and we will be able to comply with section 4.1 again otherwise this whole section needs to be re-written to require the member to write all this information on the first page of the notebook.</p>
930.00	8/5/14		<p>With current cad and report writing capabilities, this policy creates an unnecessary burden on officers with all of the requirements. It's redundant also, since much of this information is already in the cad call, even if no report is written. Would recommend scrapping all of the individual requirements for what should be entered into the notebook and give officers the freedom and leeway to decide that for themselves.</p>
930.00	8/11/14		<p>With the data that is stored in vCAD and other databases, it is really necessary for Officers to record all of the data listed in 5?</p> <p>5. Notebook Format:</p> <p>5.1. Members may format their duty notebooks at their discretion, however, each entry will include:</p>

Directive 930.00 – Website comments as of 8/30/14, close of Universal Review

		<p>5.1.1. Received, arrival, clearance times and call disposition.</p> <p>5.1.2. Type of call, activity, or special assignment.</p> <p>5.1.3. Location of incident.</p> <p>5.1.4. Complainant’s and witnesses’ name, address, phone number (home and business).</p> <p>5.1.5. Suspect or defendant info (person and vehicle) descriptions.</p> <p>5.1.6. Citation and/or arrest information.</p> <p>5.1.7. Brief description of what occurred and action taken.</p> <p>A good portion of this information is entered into vCAD or MRE. The majority of Officers working in the Operations Branch do their best to be as efficient as possible. Requiring all of this data in a notebook entry prevents that.</p> <p>What about writing #5 to give an exemption for entering the data into the notebook if it is listed in vCAD?</p>
930.00	8/11/14	<p>Do they really need to enter the time the call was recieved and when they arrived , ect. This information is captured from the MDC"s and this work is time consuming and redundant.</p>
930.00	8/12/14	<p>Notebooks</p> <p>As the PPB continues to incorporate updated technology into our professional lives (MDT, electronic reports, etc.) the notebook directive is lagging far behind.</p>

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			<p>In the modern environment, officers tend to capture information about calls (not interviews, victims or witnesses) they respond to via the "Add Comments/Remarks" feature via the MDC. Officers will add significant comments to calls via keyboard, in a quick, efficient, and appropriate manner.</p> <p>According to the directive's current format, officers are required to hand write those comments in their notebook (i.e., what happened on the call).</p> <p>If notes must still be maintained in this format, at least allow officers to reference "notes added to MDC" in their notebooks thus preventing duplication of effort and saving time.</p> <p>I would welcome an opportunity to discuss this further, should anyone be inclined. Thank you for your time and consideration.</p>
930.00	8/20/14		<p>On recommendation from PRB I suggest that a section be added to the policy that allows officers to add brief descriptions of events from calls to the CAD call record in lieu of notebook entries. Using this method memorializes comments in a manner that utilizes current technology and will aid in future retrieval of remarks.</p>
930.00	8/27/14		<p>Regarding required information, to avoid duplication, I would like to add a caveat that the listed information is required if not recorded by another means. For patrol officers this would be primarily VCAD.</p>
930.00	8/27/14		<p>5.1.4 lists "home and business" phone number as required information</p>

Directive 930.00 – Website comments as of 8/30/14, close of Universal Review

			<p>to list from complainants and witnesses. Sometimes this information is not necessary. 5.1 states that the entry "will include" both of these. This would be more accurately listed as "home and/or business".</p> <p>910.00 Field Reporting Handbook Instructions section 1.2 states "All pertinent information will be entered in the member's duty notebook." If this is actually required of every report written, then this line should be listed in this policy (930.00) as well. As 930.00 is written, it states "each entry will include..." then lists the required information. If an officer does not put anything in a notebook for a given report (which sometimes happens with simple reports when the officer puts the needed information directly into the report form), this would not meet the requirements of 910.00 which states "all pertinent information" from reports "will be" entered into the notebook. It seems unnecessary for every call's information to be entered into a notebook especially on the very simple reports (lost property, no suspect info cold thefts, etc</p>
930.00	8/27/14		<p>In the notebook directive, I didn't see a mention or reference for Investigations (Detective, DVD, DA investigators) to Detective Division SOP etc..., Most investigators don't keep a notebook. Just a thought.</p>

Directive 940.00 – Website comments as of 11/30/15, close of Universal Review

Directive	Date	Individual	Comment
940.00	11/30/15		<p>We made comments on this Directive last August when it was in draft form.</p> <p>There were substantial changes made before the Directive was adopted in December. However, many of our concerns from the previous draft remain. We will note up front that the US Department of Justice (DOJ) is correct in pointing out there is no exception to After Action Reports being filed in incidents involving deadly force.</p> <p>We had some optimism that the Directive (now Section 4.2) required a Supervisor to call the Professional Standards Division in case of a "serious use of force," but didn't realize that provision doesn't require PSD to come to the scene unless "further investigation is deemed necessary" (and it's not clear who does the "deeming"). We still believe, especially with the DOJ Agreement requiring investigations into all complaints about Use of Force, that civilian investigators from the "Independent" Police Review Division or stronger non-police agency should come to the scene of all Use of Force events. This is particularly important as the civilian subject may be questioned regarding some sort of criminal activity on his/her own part rather than the actions of the officer(s).</p> <p>In the August 2014 comments we wondered why Supervisors would call the PSD "Inspector" and not the Captain; a requirement that remains intact in Section 5.2.</p> <p>The use of a choke hold (carotid hold) is still listed as a reason to write an After Action Report, albeit moved from the Definitions section to a part requiring reporting to Professional Standards (Section 4.1 sub [4]).</p> <p>We are glad that "Operation Orders" were removed from the Directive.</p> <p>It is interesting to see that After Action Reports are now required for all "crowd events" regardless of whether police used force or not (Section</p>

Directive 940.00 – Website comments as of 11/30/15, close of Universal Review

			<p>1.6).</p> <p>Entire new-- and commendable-- sections were inserted in the December version based on the DOJ Agreement, especially around responsibilities of Supervisors to analyze the incident for: legal justification (3.4.2.4), whether de-escalation would have been used (3.4.2.5), and applying corrective action if an officer writes an incomplete/inaccurate report or fails to report force (3.4.2.9). It also adds more reasons to send cases to Professional Standards including if the subject is under 15 or pregnant (Section 4.1), which build on the old section requiring reporting if the person has or appears to have mental illness (Section 4.2).</p>
940.00	11/30/15		<p>Add 7 day timeframe for supervisors to complete AA reports with no force component. Section 2.1.2 make reference to 7 day timeline but no where else is it mentioned.</p>
940.00	11/30/15		<p>This directive uses the term "in custody" seemingly to refer to someone who is not free to leave as opposed to someone who is incarcerated. This term should be defined so that it is absolutely clear.</p> <p>Subsection 1.2 should define what a "force event" is instead of referring to another guide.</p> <p>Subsection 2.1 should not leave discretion to the Assistant Chief of whether to forward after action reports. All reports should be forwarded.</p> <p>Subsection 3.3.1 should require that member statements be recorded and taken within 24 hours of the incident.</p> <p>Subsection 3.3.2 and 3.3.3 should not permit that the bureau take subject statements. Statements should be taken by a neutral party, such as IPR, or at minimum by another another agency whose actions are under scrutiny in the particular case. Subject and witness statements should be</p>

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			<p>written by the subject/witness and they should be given the option of assistance with their statement from a neutral third party. In any event, if there are criminal charges or a criminal investigation pending against the subject or witness, members should be prohibited from interviewing them without the presence of a lawyer who represents the subject/witness.</p> <p>The Graham standard should be defined or referenced in Subsection 3.4.2.11</p>
940.00	11/19/15		<p>This directive needs clarification of the definition of a "takedown" and definition of "injury". No directive currently defines either of these things, but they're both supposed to trigger separate reporting. So what occurs on the street is inconsistent with reporting expectations.</p> <p>Officers in the Training Division have been known to define "takedown" as making someone go to the ground "faster than gravity". PSD once said it was actions based on the officer's "intent" to take someone down. And then there's the executive order from 2007. We need a clear definition. There is no definition on this in the FDCR, 910.00, or 1010.00.</p> <p>Also, regarding "injury", 1010.00 refers to ORS's definition of "injury". 940 does not provide a definition. But 940 directs a sergeant to conduct a 940 After Action investigation in the event of an "injury" or "complaint of injury". ORS defines "injury" as the "impairment of physical condition or substantial pain." So if a drunk person resists arrest and receives a scratch on his arm, or someone's wrist gets pinched by a handcuff, that should not result in an After Action. However, Lt Jones, of PSD, established a precedent of Sergeants being required to conduct After Actions for these events, even though no "injury" exists. These investigations are very thorough and can take several hours, and unnecessarily inflate our numbers.</p>
940.00	11/12/15		<p>The rest of the directive refers to injuries caused by "use of force" but</p>

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			section 1.8 is vague. This section makes it appear that if the suspect is injured even if not caused by anything an officer has done an after action should be written.
940.00	11/04/15		Regarding the definition of "force event": The directive defines this as an action requiring an FDCR, and such actions are defined as those listed on the FDCR. This causes us a problem, particularly with takedowns. We have had considerable debate about what constitutes a takedown, since it is never specifically defined anywhere in policy. I would recommend that we define the terms listed in the FDCR, especially for a takedown, to remove the ambiguity.
940.00	11/03/15		RE: 3.4.1. I got into serious trouble when I pointed out policy deficiencies in a Force AA. It was made clear to me that, despite the language of ss 3.4.1 the Bureau will not tolerate any criticism of policy in an AA. So, which is it? If a critique of an applicable policy is not allowed, say so in the directive.
940.00	11/02/15		Need to include a definition of a "take down" in either 940 or 1010.
940.00	11/02/15		Takedown as used in force data collection report needs to be defined  Injury of person in custody needs to be defined better ,ors Injury? Because 940s have been done for subject having a red mark (which does not fit ors definition) that was not complained about or substantiated by any physical contact by an officer
940.00	11/02/15		The definition of force includes maximum restraint which is no longer allowed
940.00	12/8/15		In reading the newest version of Dir 940 I see there is a 72 hour deadline for force related After Actions to be completed by a sergeant. What is the deadline for non force related After Actions? I see a reference to seven

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			<p>days in section 2.1.2 but that's it. I'm suspecting something got left out.</p> <p>Section 3.5 of 940 specifies that force related after actions will be completed by a supervisor within 72 hours. What isn't specified anywhere in the directive is the timeline for supervisor completion of non force related after actions, such as pursuits, officer involved crashes, officer injury, etc. We are hoping that it is going back to seven days.</p>
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Directive 1010.00 – Website comments as of 11/30/15, close of Universal Review

Directive	Date	Individual	Comment
1010.00	11/30/15		<p>In our comments on this Directive in July, 2014, we asked the Bureau:</p> <ul style="list-style-type: none"> <li>--to add back the words "physical or mechanical intervention" to the definition of Use of Force. These words were added back in December 2014 to apply only when such intervention is used against physical resistance during "control holds and un-resisted handcuffing." As a result, Captain Kelli Sheffer of the Traffic Division issued a finding of "unfounded," around a complaint in which an officer admitted to moving a protestor's hand (the civilian was holding a flashlight), claiming that there was no use of force it was a "natural defensive reaction." The Directive should be clear that any unsolicited touching of a civilian by a police officer is a use of force, just as any unwanted touching of an officer by a community member is considered assault on an officer.</li> <li>--to stop saying that "duty may require" the use of force (Policy section 4), or "members may be required to used deadly force" (Section 3.1), but rather underscore that force is always a choice. Those words were not changed in the update. (We suggest something like: "When no alternatives appear to be effective, officers may choose to lawfully use a reasonable amount of force to accomplish a lawful objective.")</li> <li>--to reinstate the sections on analysis of force confrontations to this Directive, rather than leaving them removed to Directive 315.30 (see below).</li> </ul> <p>In addition, we would add that:</p> <ul style="list-style-type: none"> <li>--The language in the Directive about using "only the force reasonably necessary" and to "develop... the skills... to regularly resolve confrontations without resorting to force or [using] the least amount of force" (Settlement Agreement paragraphs 66 a&amp;b) must be reinstated.</li> </ul>

			<p>--Section 2.2.2 about members precipitating the use of force by using actions not approved by the Bureau should be more specific about exceptions than saying officers can act outside of policy only with "substantial justification."</p> <p>--We would still like to see a list of firm situations in which certain levels of force are not acceptable, laid out in a chart form which shows what the Bureau considers to be the least amount of force to the most serious use of force. This used to be called the "Force Continuum" but it need not be labelled that way to be an effective guide for officers to understand. By explicitly stating the maximum acceptable force in certain circumstances, the Bureau can enhance accountability when officers violate the directive.</p> <p>--More emphasis should be put on de-escalation than the mentions in Policy section 9 (which talks about the Bureau providing training and management around de-escalation) and Section 2.1.2 (which talks about assessing the amount of force "required" rather than asking officers to de-escalate generally).</p> <p>--Priorities of the various "Graham standard" elements should be emphasized, as noted in our 2012 comments that the "impact of the person's behavior on the public" should be one of the first things officers consider, even though it is presented in the second-to-last slot (2.1.1.6).</p> <p>--The Carotid Hold should not be mentioned in the Definitions section as an example of Deadly Force without further explaining that the hold was barred from use in the 1980s.</p> <p>Finally, we generally support the recommendations prepared for the Community Oversight Advisory Board by their Data Systems, Use of Force and Compliance Subcommittee.</p>
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<p>1010.00</p>	<p>11/30/15</p>	<p>The definition of Immediate Threat doesn't include a definition of "threat." We suggest "A serious danger to a person's physical safety or health that currently exists."</p> <p>Subsection 2.1.1. should have an additional factor that considers the particular vulnerabilities of suspects, such as age, health condition, pregnancy etc.</p> <p>Subsection 2.1.4. should read "Before or during a confrontation with a person known or perceived to be in mental health crisis, members should call for specialized units immediately."</p> <p>Subsection 2.2. is too vague. 2.2.1. and 3.2.1. should include information such as "A member is equally capable of escalating a situation as a suspect is and is the party responsible for deescalating it. Actions that can be perceived as escalating a confrontation, such as aggressive verbal and body language, and excessive hands-on conduct by a member should be avoided."</p> <p>Subsection 3.1. needs some clarity. There should be an "or" between 3.1.1. and 3.1.2. Subsections 3.1.3. &amp; 3.1.4. should be separate from the others and clearly required in all circumstances.</p> <p>Section 4 or 5 should include cross reference or standard for displaying or furnishing a firearm.</p> <p>Section 7 should have a hierarchy of steps of force, including things that are not forceful.</p> <p>Subsection 8.1. should read "When a member is involved in a police action that results in physical injury or there is reason to believe there may be a physical injury, the member as soon as possible will:"</p> <p>Specific information about medical attention necessity should be</p>
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Directive 1010.00 – Website comments as of 11/30/15, close of Universal Review

			<p>provided to the members.</p> <p>Section 11 should provide specific criteria to supervisors and a deadline. We propose 48 hours.</p>
1010.00	11/09/15		<p>Force definitions includes a reference to maximum restraint. Maximum restraint has now been prohibited for use. Should we delete this reference?</p> <p>Also: complaint is misspelled:</p> <p>9.7.2. A Compliant of Excessive Force occurs as defined within Directive 940.00, After Action Reports</p>
1010.00	11/04/15		<p>under definitions,</p> <p>force: delete maximum restraint, as it is no longer authorized. ramming: strike "approved" before pit maneuver and change to PIT, as it is an acronym</p> <p>Under policy: First sentence might read better "... and case law as an upper limit on the degree of force members may use." Outside could refer to either extreme, and amount is problematic as force is not quantifiable.</p> <p>7.1.5 refer to 870.20, which covers handcuffs and hobble (or should)</p> <p>9.7.2 "complaint" not compliant</p> <p>This may be an opportunity to define "takedown" for consistency throughout the Bureau. The definition I proposed in February was ": a use of force in which a member uses any part of their body to create leverage against a subject, causing the subject to go to the ground against their will in a dynamic manner.</p>

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			It is not a takedown if a subject goes to the ground voluntarily under command from a member, even if in response to compliance techniques, but in a non-dynamic manner. "
1010.00	11/03/15		<p>#1-re: DEFINITIONS: Delete maximum restraint from definition of force. Max restrain is NO LONGER ALLOWED for any reason at the recommendation of the manufacturer.</p> <p>#2-re: POLICY: Isn't there a conflict between POLICY ss 1 Graham Standard and ss 10 stating that the bureau standard is more restrictive than constitutional and state law? Have we adopted, in whole, the Graham standard or not? If not, what parts are in conflict with bureau policy and state law? As ss 2.1.1 lists the criteria for meeting the reasonableness standard of Graham, and those are the criteria upon which we are judged, then where is the more restrictive policy? It is either Graham standard, or it isn't. If Graham is the supreme law of the land, then all other standards are irrelevant.</p> <p>#3- re: PROCEEDURE Add'l rules for deadly force ss 3.1.4 See above</p> <p>#4 re: Post use of Force medical ss 8.1.5. Due to recent problems with MCDC medical staff refusing already treated custodies, this section should be re-written "...hospital treatment to a correctional facility {shall have hospital staff call the MCDC medical staff and notify them} of the extent.....</p>
1010.00	11/02/15		This is way too long.
1010.00	11/02/15		In a previous case involving the negligent discharge of a firearm, the Police Review Board recommended the addition of language for the required notification of an off-duty negligent discharge be added to bureau directive language.
1010.00	11/02/15		I might have missed it, but I saw no reference to the hobble in this directive. If it is not addressed in another directive, this would be a good

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			place in which to put the information from Tips and Techniques 2015-2. There should be explanation about acceptable uses of the hobble and the reporting requirement.
1010.00	11/02/15		<p>Definition of force contains a reference to "maximum restraint" which is now prohibited.</p> <p>Please include a section with something similar to: "Although it is not considered a use of force, all handcuffing must be documented in a report."</p>
1010.00	2/25/15		I looked through the whole directive, but I missed the rescind piece at the top...sorry! 1010.20 had a very specific section that addressed handcuffing and the requirement to document any handcuffing in a report. 1010.00 section 9.1 could be interpreted that way, but for our purposes, it should be as clear as it was in 1010.20. Maybe I'm missing it somewhere else in the directive...
1010.00	12/16/14		<p>You've probably been notified already...</p> <p>Directive 1010.00: Typo? 9.7.1.2. Compliant?</p>
1010.00	12/09/15		<p>In reading the newest version of 1010.00 there are some unintended consequences with the wording of section 6.1 (and we know it's all about the wording) we can no longer -</p> <ol style="list-style-type: none"> <li>1. Board Tri Met busses or Max Trains - unless the engines are off/powered down.</li> <li>2. Work with a partner, unless the driver shuts off the car and removes the keys from the ignition prior to the passenger officer entering the</li> </ol>

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			<p>vehicle.</p> <p>and</p> <p>3. If a prisoner is placed in the back seat of a running and otherwise unoccupied patrol car, the member will not be able to get into the car (short of a life threatening emergency).</p>
1010.00	12/05/15		<p>Good Work on the Directives.</p> <p>If you want to know about errors. . . . . I have noticed one this time around.</p> <p>Directive 1010 Use of Force, 9.7.1.2 Excessive Force. Did you want to say Complaint or Compliant?</p>
1010.00	12/4/15		<p>I just read the latest set of directives and noticed that members are expected to use force in some situations. I think you mean <i>Sworn Members not Non-sworn</i> members.</p>

Directive 1010.00 – Website comments 6/30/17-7/14/17

Date	Individual	Comment
7/14/17		<p>A PRB made the following recommendation: It was suggested that when shots are fired on scene, even if prior to police arrival, there is a high likelihood for injury, therefore, considering early deployment and staging medical assistance could potentially save lives. The recommendation was made to review procedures as to how and when medical personnel are dispatched the scene involving incidents where shots are fired.</p>
7/14/17		<p>Universal review</p> <p>This directive is too complex to be easily understood. More importantly it is so complex that it will serve to cause members to delay or hesitate in critical moments while performing their duties. The Bureau should consider radically revising it to make it simpler. There are many distinctions made that if we are honest really just get us back to the Graham standard and Bureau members and the community would be better served if that standard was relied upon rather than attempting to parse out so many possibilities as done in this draft.</p> <p>The final report by the panel on 21st Century Policing in America, and many of the panel discussions and expert testimony, recommended simple directives, including force directives. That simplicity is not achieved here.</p> <p>I have no doubt that tremendous time and effort went into this draft. Thank you. This draft, however, is too complex and should be edited, and shortened, in ways that are not only possible but necessary to achieve clear and useable direction for Bureau members that will enhance their safety, the safety of the community and increase the level and quality of service provided.</p> <p>I offer the following minor suggestions under the assumption that major revisions are unlikely.</p> <p>Improper Use of Force: The application of force where there is insufficient justification for its use, where the use of force is more than is objectively necessary or that violates policy.</p> <p>This def is good. Improper is a word that can then be used in allegations.</p> <p>Takedown: Physical coercion used by a member to affect, direct, or influence a person to go to the ground not under their own control.</p>

The phrase “under their own control” is vague. Also this definition leaves out any mention of velocity.

Policy:

5. The Bureau is dedicated to providing training in all categories of force and de-escalation techniques, as well as providing sufficient resources, to help members safely and effectively resolve confrontations through the application of de-escalation tools and lower levels of force. When feasible, members are expected to use de-escalation tactics in order to avoid the need for or reduce the amount of force. However, the Bureau recognizes that each situation is unique and presents its own challenges. Members are expected to adapt and apply Bureau core training principles reasonably in unanticipated situations.

The definition of what a “lower level” of force is us never provided. In fact use if this phrase is confusing to members as we do not have “levels” of force. If we do please provide them in order in this policy. The phrase “levels of force” will cause officers to hesitate in the moment force may be necessary and may place them and others at risk unnecessarily. Please remove all uses of this phrase. In the example above “de-escalation tactics” could be the conclusion of that sentence since de-escalation is defined and is explained at some length in the next section.

1.1. Members shall use disengagement and de-escalation techniques, when time and circumstances reasonably permit. De-escalation techniques provide members the opportunity to stabilize the scene or reduce the necessity for or intensity of force so that more time, options and resources are available to resolve the confrontation. Members shall take proactive steps to eliminate the immediacy of the threat, establish control and minimize the need for force.

“Control” needs to be defined.

1.4. When force is used, the amount of force used, including the number of members who use force, shall be reduced as resistance decreases. Only the amount of force reasonably calculated to maintain control shall be used.

There is no definition of what it means to “maintain control”. “Control” should be defined because it is used again in this policy and it is left to the interpretation of the reader to decide

what means.

1.5. Members shall refrain from the use of force against individuals who are already under control by officers or who express verbal discontent with officers, but do not otherwise pose a threat to officers or others, or impede a valid law enforcement function. Members must balance the governmental interest to take action in service of the public against the rights of individuals involved.

Here it is unclear what it means for a person to be “under control”.

6.3.

Members shall not use any less lethal weapons against individuals who are handcuffed or otherwise restrained, and under control.

Here it is not clear what it means for an individual to be “under control”.

6.4.1.1.1.1.

When striking, members should only use the Bureau-issued baton. Use of any other impact tool is strongly discouraged...

Replace “the Bureau-issued” with “a Bureau-issued”. There are at least three Bureau-issued batons.

6.4.2.1.3 To avoid the use of a higher level of force; or,

Remove the phrase “level of force” because levels of force are not defined. This will cause officers confusion at the moment they may be defending themselves or others.

6.4.4.1.3. To avoid the use of a higher level of force; or,

Same comment as above.

6.4.4.2.1. Members shall avoid the use of more than three CEW applications against the same individual, unless exigent circumstances (immediate and serious bodily harm to a person or persons is about to occur) warrant use. Members shall not use a CEW for pain compliance against

those a reasonable officer would believe have an actual or perceived mental illness or are in mental health crisis, except in exigent circumstances and then only to avoid the use of a higher level of force.

“Pain compliance” is never defined. It's use here also suggests that the limitations placed on using “pain compliance” on a person in mental health crisis is different than using “pain compliance” on other people. There is, however, nowhere else in the directive any mention of using this tool for “pain compliance”. This phrase is vague and needs to be defined and using a CEW for pain compliance, if allowed in other circumstances, needs to be explained.

6.4.4.2.4. Members shall not use a CEW on a handcuffed or otherwise restrained subject, unless doing so is necessary to prevent them from causing serious physical injury to themselves or others, and/or to avoid greater application of use of force and no reasonable alternative is apparent. Where practical and safe to do so, members shall obtain supervisory authorization before deploying a CEW on a handcuffed subject.

The phrase “greater application” connotes levels of force.

10.3. Category II: Other than deadly force, force resulting in hospital admission;

“Admission” should be defined.

10.3.1.2.

Same observation.

10.3.2.1.

Same observation.

10.5.1.2. Takedown performed in a completely controlled manner where there is minimal resistance and no injury;

The phrase “completely controlled” is never defined. Like “under control” it is vague. Same problem with “minimal resistance”.

10.6.3. If the force used does not clearly align with any of the categories, the on-scene Sergeant's immediate supervisor shall determine the degree of the investigation.

This is understandable, but problematic. For shifts when a sergeant does not have direct access to an on duty lieutenant this section will require a phone call. Now the lieutenant has to rely on the sergeant's ability to summarize a circumstance so unusual or complicated that it requires not only notification up the chain of command but a decision by the higher ranking member who does not have all the facts or evidence at his/her disposal.

Maybe the sergeant should be trained and empowered to make this decision following by a notification. Or, as above when many options are available, opt for the higher category.

10.6.4. An on-scene supervisor who reasonably believes that a use of force involves significant misconduct by a member shall immediately notify their immediate supervisor and PSD. PSD shall determine the degree of investigation required.

Explain the method by which notification of supervisor and PSD takes place. This is vague.

11.1.8. In addition to those guidelines, regardless of force category or type, involved members shall also include a description of the following in their use of force reports:

This section is good, but, dear Bureau, please provide meaningful and ongoing training on report writing. Also consider training modules that allow members to become adept at speaking about all of this as well. Writing it is one thing, but we are now requiring members to describe out loud all this material. The do it with their sergeant, in court, in IA, and we never provide any training to help them do it well.

12.8. Supervisors shall immediately notify the shift supervisor and PSD...

How is the notification to be made? It needs to be expressed here clearly.

13.5. If a supervisor determines that there were performance deficiencies not rising to the level of misconduct, supervisors shall determine whether additional training or counseling is warranted. The Bureau shall provide such counseling or training, consistent with Bureau policies.

		<p>This is good. Is the Bureau prepared to offer training when supervisors determine there is a need? The Bureau should create the capacity to train officers in a meaningful way either at their RU or via the Training Division. Such training scarcely exists save the creativity of a few very motivated sergeants. This is an area that could be vastly improved.</p> <p>13.12. The RU Manager shall ensure that the narrative section of the use of force After Action report is forwarded to the Multnomah County District Attorney’s Office in a timely fashion.</p> <p>By what method is this achieved? The directive should explain.</p>
7/13/17		<p><b>DIRECTIVE 1010.00-USE OF FORCE</b></p> <p>In November 2015, we noted that specific language required to be in the Force Policy under the USDOJ Settlement Agreement had been removed from the Directive. We applaud that the Bureau has reinstated the phrase "only the objectively reasonable force necessary" (with the word "objectively" being a new addition) in Policy Section 2. The revision also reinstates the phrase asking officers to "develop... the skills... to regularly resolve confrontations while minimizing the need to use force" (Policy Section 4), though the Agreement calls for language saying "without resorting to force or [using] the least amount of force" (Settlement Agreement paragraphs 66 a&amp;b). At the very least, the phrase should say "minimizing the use of force" without the unnecessarily loaded word "need."</p> <p>We also recognize that the Bureau has put more emphasis on de-escalation (as we and various advisory bodies have urged) by making De-escalation the focus of Section 1. However, we remain very concerned that the Bureau is using the term "de-escalation" to mean two different things. The first, and the one we encourage the Bureau to keep focusing on, includes verbal and physical means to lower the likelihood that a confrontation will end with violence (Sections 1.1.-1.3). However, it is also used to describe officers using less force on a person who's already been subjected to use of force as their resistance lowers (Section 1.4). While this is required by the Settlement Agreement (which uses the term in this way) and a good policy, we recommend another word (perhaps "abatement" or "mitigation" of force) so that officers do not continue to describe moving from using a Taser to using pepper spray, for instance, as "de-escalation." We also note that Section 1.1.1 implies that making threats ("warnings") is a form of de-escalation, which it is not.</p> <p>In our comments on this Directive in July, 2014 and November 2015, we asked the Bureau:</p>

--to re-insert the words "physical or mechanical intervention" to the definition of Use of Force. These words were added back in December 2014 to apply only when such intervention is used against physical resistance during "control holds and un-resisted handcuffing." The new version cuts these words altogether, now saying "control holds and handcuffing without resistance do not constitute force." In 2015 we related how Captain Kelli Sheffer of the Traffic Division issued a finding of "Unfounded," around a complaint in which an officer admitted to moving a protestor's hand (the civilian was holding a flashlight), claiming that there was no use of force it was a "natural defensive reaction." We maintain that the Directive should be clear that any unsolicited touching of a civilian by a police officer is a use of force, just as any unwanted touching of an officer by a community member is considered assault on an officer.

--to stop saying that "duty may require" the use of force (now in Policy Section 2), but rather underscore that force is always a choice. We applaud that the phrase "members may be required to used deadly force" has been cut from the Directive, a step in the right direction. We suggested the Bureau say something like: "When no alternatives appear to be effective, officers may choose to lawfully use a reasonable amount of force to accomplish a lawful objective."

--to reinstate the sections on analysis of force confrontations to this Directive, rather than leaving them removed to Directive 315.30 Satisfactory Performance. At this point, there is not even a substantive reference to 315.30 in the Force policy.

We also expressed concerns in 2015 about leeway given to officers to precipitate force by using actions not approved by the Bureau by saying officers could do so with "substantial justification." Not only is that exception still in the Directive (Section 5.3.2), but it appears in other places as well (Section 6.4.3.2.1 about using pepper spray on a car's driver, and Section 8.5.9 about entering a car readily able to be driven).

The new Directive somewhat addresses our concern that officers can't possibly know when they are "avoiding a use of a higher level of force" (Impact Munitions 6.4.2.1.3, Tasers 6.4.4.1.3 and 6.4.4.2.1), if there is no clear continuum explaining which options are considered lower. The distinction is made that Impact Weapons/Munitions and Tasers can be used against "active aggression" (6.4.1.1.1, 6.4.2.1.1, 6.4.4.1.1) while pepper spray can be used against physical resistance "or the intent to engage in physical resistance" (6.4.3.1.1). Deadly force is authorized "to protect (officers) from what they reasonably believe to be an immediate threat of death or

serious physical injury" or to stop a fleeing felon who poses such a threat (8.1). We note here that therefore the Directive is laid out with what's considered lower force (pepper spray) in the middle of higher uses, which are then separated from Deadly Force by Police Vehicle Intervention Strategies (Section 7).

In our previous comments we also questioned the Bureau's "START-IT" mnemonic device for considering the factors under *Graham v. Connor* that legally justify officer use of force, because, for example, the impact of the person's behavior on the public was second-to-last rather than earlier on. The new Directive doesn't even mention the person's impact as a consideration, only Threat (5.1.1), Severity of the crime (5.1.2), Active Resistance/Evading (5.1.3). One primary consideration-- time and available resources-- is not specifically mentioned anymore, in favor of noting "a reasonableness inquiry is not limited to these [three] factors" (5.2). De-escalation and many positive stories of officer resolution of conflict in the last few years have involved their willing to be patient rather than rush a situation, so we hope these other factors will be re-incorporated as priorities to consider.

We also called attention to the fact that after the death of Lloyd "Tony" Stevenson in 1985, the Bureau prohibited the use of the carotid neck hold. Yet, the carotid hold is mentioned in the definition of deadly force and "serious use of force," as well as Section 10.2.1.4 with no restriction. While it is good that deadly force is also defined as a "strike to the head, neck or throat with a hard object" (and that is investigated as deadly force in 10.2.1.5), there also is an implied permission given to use such tactics when there are no prohibitions in the policy. That said, Section 6.4.1.2.1 does restrict the use of batons/impact weapons on the "head or throat, neck, spine or groin unless deadly force would be authorized."

Regarding officers shooting at vehicles, it's not clear why the section restricting firing at moving vehicles (8.5.2) saying deadly force is authorized if there is an "immediate risk of death or serious physical injury" dropped the provision that such a threat had to come from something other than the vehicle. We also noticed the list of references to other Directives does not include 630.05 on Vehicle Pursuits, where deadly force options (ramming, Pursuit Intervention Technique, and boxing-in [1010.00 Section 7.1]) are outlined.

\_\_\_Carry Over from Other Policies to 1010.00

In this part of the analysis, we examine how Directives 1050.00 (Less Lethal Weapons), 1030.00

(Baton Use), 1051.00 (Conducted Energy Weapons\*1), 1040.00 (Aerosol Restraints), and 940.00 (After Action Reports) were incorporated, changed, or modified in the new Use of Force Directive.

The new Directive combines all four weapons systems listed above, plus Impact Munitions, Riot Control Agents, and Hobbles into the general category of Less Lethal Weapons (Section 6). We appreciate that the Directive cautions such weapons "can still result in death or serious injury" (Section 6.1). However, we urge the Bureau to carry forward the warning from the definition of "Impact Munition" in draft Directives 1020 & 1021 which says such weapons are "not to be considered non-lethal."

While we appreciate that specifics about how to use weapons are now consolidated into Directive 1020, perhaps the restricted use of impact munitions in 1010.00 should include the restriction that officers should not carry both "bean-bag" and standard shotguns at the same time, and reinsert the previous policy that a second officer should double-check that a gun is loaded with less-lethal rounds (old Directive 1050.00 Section 6.1). In fact, that provision does not even appear in the revised 1020.

The new general call for officers to issue warnings before using force (Section 3) is much better than the old version (which suggested saying "stop, or I'll shoot"-- 1050.00 Section 6.1.3), including that it asks to take into consideration language barriers or the inability to hear (3.1). We agree with the Training Advisory Council that other possible barriers such as mental health crisis and intoxicant impairment, as listed in Section 1.2, and cultural norms should also be added here.

We are still very concerned that officers are allowed to use "arcing" (creating an electrical "zap" with the Taser) in the air as a means of warning a suspect of impending use of force (6.4.4.1.5). Since warning shots from a firearm are prohibited (Section 8.3.1) "for the purpose of compelling compliance from an individual, but not intended to cause physical injury" (definitions), it does not make sense that such threatening behavior is considered to be within policy. The Directive also allows the Taser to be used to threaten or coerce a person to "manage a potential or actual physical confrontation" (6.4.4.2.2), which is not a form of de-escalation (and to which we objected when it was allowed under 1051.00). Furthermore, Section 6.4.4.1.5 also allows using the Taser's laser sight as a means of warning, which is similarly unreasonable, but even if it is going to be allowed, should be required to be reported as a use of force. The Bureau tracked "Laser Light Only" until 2008 and was a national leader for doing so.\*2

The Directive also still contains a reference to "excited delirium" (Section 9.8, requiring EMS to be called), which is (a) not defined in the Directive and (b) not a medically accepted term. Rather, it is a vague syndrome that Taser International (now Axon) uses to explain why so many people die when they are struck by their allegedly safe electroshock weapons.

Perhaps our greatest concern about the Taser provisions is that they still do not seem to be in line with the 9th Circuit Court of Appeals ruling which said Tasers are a serious enough use of force that they can only be used when there is an "active threat." While the Directive prohibits use merely for a person running away, it describes a "reasonable belief that the subject presents a risk of death or serious injury" (Section 6.4.4.1.4) rather than using the Court's criterion of an active threat.

Also, previously it was prohibited to use Tasers against persons engaged in passive resistance. Now section 4.2 generally prohibits force to overcome such resistance, but only if it "does not impede a lawful objective." This seems like a license for officers to use violence against non-violent protestors (or criminal suspects). Section 6.4.6.2.1 specifically says riot control agents and "area impact weapons" can't be used in cases of passive resistance that, again, "does not impede a lawful objective."

The list of persons against whom Tasers should not be used now applies to all less-lethal weapons (Section 6.2), except that: (a) the lower age prohibited has now wisely been raised from 12 to 15 (6.2.1), and (b) for unexplained reasons, the prohibition on using them against persons over the age of 60 has been removed. We previously expressed concern that it was not mandatory to report uses of force against persons in such restricted classes, but it appears that being defined as a "category II" use of force may cover that concern (Section 10.3.1.5).

While it is commendable (and in line with the Settlement Agreement) that officers should not use Tasers against persons who seem to be in mental health crisis (Section 6.4.4.2.1), there is still no consideration for people who may have epilepsy or other conditions making them vulnerable to Taser use.

We appreciate the new Section (6.4.4.2.5) prohibiting officers drawing both a Taser and a firearm at the same time.

Sections detailing what should go into a report, requiring a supervisor to check on a wounded civilian who is hospitalized, photographing injuries, and explaining why a Taser was used were all cut from an earlier version of the Directive, and, as we said in 2015, should be re-inserted. In fact, the person who was subjected to force is not listed as part of the supervisor's on-scene force investigation (Section 12), except that they be given medical attention (12.2). Supervisors are to "attempt" to interview the subject per Section 13.4.6, but there is no caution against asking questions about potential underlying criminal activity. This is why PCW continues to call for the "Independent" Police Review or other such non-police agency to respond to scenes of use of force.

Regarding Baton use, while the examples of flashlights and radios are gone from previous Directive 1030.00, the new Directive seems to authorize use of anything as an impact weapon\*3 if an officer "reasonably believes that other authorized physical force responses are not available" (Section 6.4.1.1.1.1).

In looking at how the Force Directive applies to pepper spray, we continue to have concerns that Incident Commanders in crowd situations can authorize the use of chemical agents to disperse a crowd (6.4.6.1.1) since persons not engaged in "physical resistance" or "active aggression" are being subjected to such gassing (as was true in old Directive 1040.00). The admonition "to minimize exposure to non-targeted persons" (Section 6.4.3.2.2) is meaningless when officers use pepper spray or other chemicals so indiscriminately.

In terms of the seriousness of pepper spray, which has been known to cause or contribute to the deaths of numerous people (including Dickie Dow in Portland in 1998), it is good that its use is considered on the same level as Tasers (1-2 cycles) and impact weapons (Section 10.4.1.2), even though the threshold for use (physical resistance) is lower. It's not clear why reporting on the circumstances leading to the discharge of Less Lethal Weapons/Munitions (11.2.1.1) and Tasers (11.2.3.1.1) are required, but there are no specific reporting requirements for pepper spray.

Furthermore, in a previous iteration of the Directive there was a restriction to only use the spray from four feet away or more (even though that restriction was "to reduce the potential for splash back" and had a loophole for protection of the officer or another person from physical injury). With the famous image of the Occupy Portland protestor being sprayed in the mouth, and another such incident we witnessed on May Day 2015, we would like to see restrictions put on this chemical agent.

		<p>It is unfortunate that the previous After Action Report Directive (940.00) called for such reports to be made after all "crowd events," but now this Directive (and 905.00, see below) have more limited requirements. The new 1010.00 applies to use of "all launched impact munitions with contact" (10.3.1.7), "riot control agents and/or area impact munitions"(10.3.1.12), "impact weapon with injury requiring hospital treatment" (10.3.1.8), and various uses of force which are sometimes used but not necessarily particular to crowd control. A report that only goes up to the Responsibility Unit Manager, not the Chief's office, is to be written for "use of aerosol restraints" (10.4.1.2), "use of impact weapon, without injury" (10.4.1.4), "launched impact munitions, without injury" (10.4.1.7) and other various uses of force.</p> <p>Since "control holds" and force used at protests do not seem to be considered force by definition, PCW wonders why the Bureau now only requires officers to contact supervisors after a use of force (Section 11.1.1) where the old Directive 940 also required the contact if there was a complaint of excessive force or physical injury.</p> <p>We are glad to see the DOJ Agreement-related sections we highlighted in 2015 are still present, in which Supervisors are required to analyze the incident for: legal justification (13.4.10.1.5), whether de-escalation could have been used (13.4.10.2.4), and applying corrective action if an officer writes an incomplete/inaccurate report or fails to report force (13.4.10.1.6).</p> <p>If we had unlimited paid staff time, rather than being all volunteers, we would also go through the Directive to see how many of the recommendations made by the COAB and CRC (which we supported) were incorporated.</p>
7/3/17		<p>Is there a definition that explains what a "higher" level of force is, or what constitutes what is a "higher" or "lower" level of force? There is mention of these, yet there is nothing that says what that means.</p> <p>definitions: CEW Cycle should read "an application" and not an "activation." If a member utilized a warning arc, that would constitute a cycle, which is not the same as an application</p> <p>"serious use of force" section (7), seems contradictory. If there are 3 drive stuns totaling 1 aggregate second of exposure, that's a "serious use of force" whereas 10 aggregate seconds of 2 standard cycles is not. This makes no sense.</p>

		<p>6.4.4.2.1. directs members to not use more than 3 applications of CEW except in extreme circumstances, which seems like an unreasonably high standard and could easily put members at risk</p> <p>6.4.4.3.2. it would make more sense and cover more material if the targeting requirements would direct the member to follow targeting guidelines set forth by training, then list those areas</p> <p>6.4.4.3.2. I know this is part of the DOJ settlement agreement, but its ridiculous. The implication is that 2 members deploying at the same subject at the same time could result in death or serious physical injury, which is not true. I explained this to Ellen Osoinach and she told me they "had to come up with something" and was unable to explain the intent behind this issue.</p> <p>6.4.4.3.4. This sections needs to add: "to physically control" in addition to the handcuffing. It's completely unreasonable to expect members to attempt cuffing in only 5 seconds. Adding "to physically control" gives members the expectation to go hands-on quickly and control. The wording of "between" should be removed. It's grammatically incorrect. If one were to cuff "between" cycles, then there would be an application AFTER cuffing.</p> <p>6.4.4.4.1.1. We have never photographed or collected "tags" (AFIDs, or Anti Felon ID tags) after a CEW deployment. This is a worthless task.</p>
7/1/17		<p>72 hr requirement is more often then not an unrealistic expectation for a patrol supervisor. This should be changed to at least 96 hours. With all of the other duties of a patrol Sergeant including management of the daily street patrol functions, the PPB and DOJ stiff reporting standards for perfection in the AAR's causes this quick 72 hr requirement to be a cause of errors in the AAR's. Higher up command receives 28 days from the date of incident yet patrol supervisors receive 72 hrs (?)</p>
6/30/17		<p>Don't be afraid to use lethal force when it's warranted. Most of the reasonable citizens understand and appreciate the use the lethal force to keep the city, its residence, and the police officers safe. We support you! Ignore the psychos who march around and destroy the city.</p>

Directive 1010.10 – Website comments as of 6/30/15, close of Universal Review

Directive	Date	Individual	Comment
1010.10	9/24/15		<p>Incorporate statement: involved member = automatic CRO, actual CRO given at a later time</p>
1010.10	7/1/15		<p>Under the definition for “Witness Member”, I think a “who” is needed in the last sentence: “Additionally, a member WHO observes or has firsthand knowledge of a member who directs another to use deadly force.</p> <p>Section 5. might better be numbered as 4.1.</p> <p>Sections 1.3 and 1.10 seem to cover the same topic and could probably be combined.</p> <p>Section 3.1 might be bettered titled as “Onscene Member Responsibilities” since this really relates to everyone onscene other than the involved and witness officers.</p> <p>Sections 3.1.2 and 3.1.3 are related to 3.1.1 and might be better numbered as 3.1.1.1 and 3.1.1.2 to help with the flow of things.</p> <p>Sections 3.1.1, 3.2.1, and 3.2.3 all seem to cover the same topic. Can these three be combined to avoid confusion? Or at least combine sections 3.2.1 and 3.2.3 since they are both under the “Involved Member Responsibilities”.</p> <p>Section 3.3.5 says “Witness members will not discuss the incident with any other person other than...” Then the next line says “Members will not discuss the incident with anyone other than those covered in the Communication Restriction Order once it is issued.” My concern is if the people listed on the CRO do not match those listed for Witness members.</p>

			<p>Can this paragraph be clarified a little?</p> <p>Section 7 seems to cover the same information as section 3.4 but then it also looks like it could be related to section 6. except it doesn't talk about outside agency information. Can this be combined with section 3.4 since it seems only related to incidents occurring in Portland with a PPB member ("3. Deadly Force/In-Custody Death inside the City of Portland during a Police Action by a Member")?</p> <p>Sections 7.1.7 and 7.1.10 seem to cover the same topic. Can these be combined? It's also covered in section 3.4.1.7</p>
1010.10	6/29/15		<p>1010.10 POST DEADLY FORCE PROCEDURES</p> <p>As we noted in our comments on this Directive last July, we really would prefer someone other than the police be brought in to conduct the criminal and administrative investigations of these most serious Use of Force incidents.</p> <p>--Perhaps because it is addressed elsewhere, the administrative investigation (by Internal Affairs) is not mentioned in the Directive. We continue to object to those investigations being referred to as "reviews" and thus precluding people who are shot/ shot at/ killed by police (or their survivors) from filing a misconduct complaint or appealing the outcome of the investigations.</p> <p>--Since the previous version is no longer on line, we're not sure whether it's new or we just missed it last time that in Policy Section 3, the purpose of the investigation of deadly force incidents is listed as "determining justification," which implies that the Bureau is trying to find a way to justify the officer's actions rather than determine whether those actions were justified by policy/ training.</p>

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			<p>--We're still a little unclear on the substance of involved officers' voluntary statements and the witness officers' "interviews" which used to be referred to as "briefings" (Section 3.2.6).</p> <p>--Per Sections 1.1 and 1.7.5, the Bureau is to put out information about the subjects of deadly force. This information almost always includes a criminal history if there is one, which clearly could bias people trying to evaluate the shooting from an objective viewpoint (especially if the officers did not know that information at the time). All that's required to be released about the officer is their name and length of service, nothing about their possible past history of violent / deadly encounters with members of the public. This seems fundamentally unfair.</p> <p>--Again, not having the previous version for comparison we note that the Bureau now contacts the Department of Justice (Section 3.5.2.2) after a deadly force incident, which we assume means the US DOJ, not the state, though both should likely be notified.</p>
1010.10	6/9/15		<p>Definitions:          Witness: Should be "member who," last sentence.</p> <p>Procedures:          1.1 "Public's right to know," change to "public's desire to know".          Change "As a general rule the Bur will," to "The goal of the Bureau is to"</p> <p>2.14 Should be "documenting" for tense consistency with previous sentences</p> <p>3.4.1.7 refers to weapons being holstered. What about long guns (rifles, shotguns, less-lethal beanbag)? Should they remain slung by the operator or is there another procedure?</p>

			<p>3.5.2.2 refers to DOJ. US or OR?</p> <p>4.1.2 refers to notifying supervisor. Which supervisor? Should a member attempt to contact a supervisor of their shift or RU? What if they are off-duty? Clarify</p> <p>6. "Members from another jurisdiction" probably should be "Law enforcement other than Bureau members"</p> <p>6.3 For subject agreement of "members" change "his or her" to "their"</p> <p>It seems excessively complex, lengthy and redundant to have both sections 3.4 and 7 which essentially both spell out supervisor responsibilities at the scene. Why not consolidate these into one section and eliminate duplication.</p>
1010.10	6/4/15		<p>How can a community possibly trust officers investigating other officers? The investigation and decision making process on what information is released is all done by fellow officers, the "Detectives Division." The Chief of Police is in charge of clearing information release. This is like asking a father to investigate his son, not guilty! Every time, it will be not guilty. This is the root cause of all of the protests and riots that have taken place with regard to the policing community. There are no consequences for officers who act inappropriately and according to this directive, nothing will change. If we keep these type of policies in place expect for the community to get tired of police soon enough and look for more incidents' of community members targeting police officers in violent crimes. This is due to the lack of accountability of officers involved in "Deadly Force" and "In-custody deaths." The state of police in this country is disgusting. They are nothing but bullies who have the power and the status to kill people without regard and get a paid vacation in response for doing so.</p> <p>There needs to be a non-police investigation into EVERY officer involved</p>

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			<p>shooting. And those investigators should be cooperated with and forced to share all information with the media, because you know that the Chief of Police is not going to come out and say, "My employee, Officer Deadly D. Dum, stepped outside his rights as an officer and killed a civilian without just cause." That would simply cause him to lose funding and community support, therefore, he will not do it, no matter what the case. Kill the Blue Wall of Silence...tear it down and punish those who act unjustly or suffer the consequences when the community loses all hope and respect for officers of the law.</p>
1010.10	6/4/15		<p>It seems that the section "Supervisors responsibilities" and "First Resonding Supervisors checklist" could be combined into one section for brevity and clarity.</p>
1010.10	6/3/15		<p>I noticed a couple of places where the policy doesn't match what is actually happening right now:</p> <p>2.3 For the last couple of OIS, PSD is actually issuing the "Rescind CRO" memo to the involved and witness members. I think Detectives have an SOP that they're supposed to ask PSD before they rescind, but it seems to work just as well to have PSD rescind the CROs.</p> <p>3.5.2.3 The PSD Captain knows who is "on call" from IPR and makes this notification.</p>
1010.10	6/1/15		<p>In the definitions, under "Involved Member," change "possession" to "custody."</p> <p>In the Policy section, part 4: We might want to spell out that Detectives has responsibility for the criminal investigation, while PSD has responsibility for the administrative investigation. The way this is worded</p>

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		<p>makes it look as though Detectives are in charge of the entire case, when they are really only responsible for the narrow part of it dealing with criminal culpability.</p> <p>In Section 3.7.7, "Internal Affairs Captain" should read "Professional Standards Captain." Internal Affairs is now a unit within PSD rather than its own division, and this language reflects an outdated Bureau structure.</p>
1010.10	6/1/15	<p>Directive 940.00 requires immediate Professional Standards Division notification of any serious use of force (as defined by 940.00). It seems this Directive contradicts 940.00 on incidents of officer involved shootings by requiring PSD notification be made by the AC of Services after being notified through a process of up to 5 previous notifications.</p> <p>I suggest a notification group be established for PPB OIS/ICD and when one occurs immediate notification can be made to EVERYONE responsibly for participating in the investigation and review. With this established, the policy should be amended to require the on-scene supervisor have BOEC alert the PPB OIS/ICD notification group for response to the scene.</p> <p>The BOEC MAJOR PAGE is ineffective because the items triggering the alerts are too broad. Very few people/units who would need to know about an OIS/ICD need know (or want to know) about car crashes or fires.</p>
1010.10	6/1/15	<p>Regarding section 7.1.1</p> <p>Section requires an uninvolved bureau member in the ambulance with injured officer or citizen. This is written as a "shall" type policy with no reasonableness built in.</p> <p>Recently an officer involved shooting resulted in a transport of a suspect who was critically injured. There were no officers available on scene</p>

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		<p>(untasked and uninvolved) to accompany the suspect. Instead an enroute officer was redirected to meet the ambulance at the hospital, thereby allowing the ambulance to leave immediately with the suspect.</p> <p>To delay medical care for an officer or citizen in order to satisfy this element of the policy (when medical personnel approves and states medical necessity) seems out of keeping with all of our "sanctity of human life" policies, morals, and standards.</p> <p>A provision to address when resources are scarce, medical personnel approve the transport, and there is an urgent medical need would alleviate this issue.</p> <p>Thank you for your time and dilligence in working through all the policies, feedback, corrections, etc.</p>
1010.10	2/4/15	Comments attached under separate cover
1010.10	12/4/14	<p>I just read directive 1010.10, and I had a suggestion for something to be considered next time it's up for review. In our most recent shooting, the officer used a shotgun, and it was unloaded and placed in the rack before detectives arrived. There is direction for what officers are supposed to do with their sidearms, but no direction for what to do with shotguns or AR-15s. I don't know what detectives want, but it would be good to bring up with them next June. I apologize, but I must have missed it when it was posted on the bureau website for comment... Do you keep track of off-cycle recommendations, or should I just wait for it to be posted again?</p>

Directive 1010.10 – Website comments 6/30/17-7/14/17

Date	Individual	Comment
7/14/17		<p>I oppose the proposed changes. Delaying the writing or submission of an officer's report until the end of the legal process seems to be the most unprofessional police procedure I can imagine.</p> <p>I also object to the way feedback from the public has been solicited. Rather than seeking input, every possible obstacle seems to have been put up.</p> <p>It reminds me of the first time I went to the Portland Police Central Precinct to submit a complaint. When I asked the officer on desk duty where to go in the building to file a complaint, I was asked the nature of my complaint and then told that it was not possible to submit a complaint about such a matter.</p>
7/14/17		<p>My name is Sushanah Boston. I am an acting co-chair of the Training. Advisory Council (TAC). The following submission is endorsed formally by TAC</p> <p><b>Recommendation 3</b></p> <p>TAC's principal role is to advise the Chief and Training Division on training issues. However, because TAC's dedicated role in reviewing Use of Force training is spelled out in the city's settlement agreement with the U. S. Department of Justice, we comment on PPB policy language when we believe it has a direct bearing on the Training Division's ability to properly prepare officers to meet the bureau's oft-stated goals of accountability and of applying the least lethal force required when an officer deems force to be appropriate. This is especially timely since the bureau is finalizing a new use-of-force policy that we believe would benefit from the following recommendations.</p> <p>Insert the following specifics into policies and procedures:</p> <ol style="list-style-type: none"> <li>1. Change that last sentence of section 2 to include (changes bolded for clarity):                      “Members who violate these values by using objectively unreasonable force erode the confidence of the community and may expose themselves, those present, and the greater population to unnecessary danger; thus, objectively unreasonable uses of force shall result in corrective action and /or discipline, up to and including termination, and can result in criminal prosecution.”</li> <li>2. Change the first sentence of section 4 to read (changes bolded for clarity):                      “Over the course of their careers, the Bureau expects members to develop and use skills and abilities that allow them to regularly resolve confrontations while minimizing the need to use force, and when force is deemed reasonable, to apply the least lethal force required. Members are to be aware that this Directive is more restrictive than state or federal laws.”</li> <li>3. Change item 5 in section 1.2 to read (changes bolded for clarity):</li> </ol>

	<p>“ (5) ...language communication barriers...</p> <p>4. Add 3.1.2: “A person cannot respond if they are unable to follow instructions or commands, which is often the case during a mental health crisis.”</p> <p>TAC thanks the Training Division, Lieutenant Krantz, and Lieutenant Morgan for their cooperation, but requests that new Directives as critical as 1010 and 1010.10 have extended periods for community review. TAC steering committee meets once per month. The full body meets every other month. TAC requests that policies of significant interest to the community have:</p> <ul style="list-style-type: none"> <li>• Extended review times longer than two weeks.</li> <li>• Additional versions where changes are captured to more easily track and understand changes and their impacts to community and thus, training.</li> </ul>
7/13/17	<p>Overall, this policy is a clear step back. The extensive sections on each less lethal tool indicate a deliberate move to a "levels of control" force management model. I find it hard to believe that any working police officers with knowledge of case law were consulted during the construction of this policy (outside of the blanket e-mails that are sent to everyone). To enact this overly complex and yet totally inadequate policy would be to visit a travesty on every officer who has to make a split second force decision using it as a guide to proper behavior. What follows are a few issues I discovered during a cursory review of it. I simply didn't have time for an in-depth review.</p> <p>This statement is incredibly problematic: "Unless it would present a danger to the member(s) or others, members shall issue a verbal warning or attempt to utilize hand signals where there is a language barrier or the subject is deaf or hard of hearing, prior to using any force." The problem is the use of the word "any." Under these circumstances, if officers go to place a subject into custody for transport to detox, the subject tenses his muscles as they take him into custody, and they apply some physical coercion to counter that resistance, even if to hold the subject static as they give him a warning, they are likely to be out of policy. It is hard to make the case that a drunk tensing his muscles poses a true danger to a police officer, yet in these circumstances it is often wise to immediately use force without resorting to a warning. Even the liberal 9th Circuit recognizes this, limiting the required use of warnings as they have under Deorle and progeny. Imposing this standard creates an impossible bar for compliance with the foreseeable outcome of supervisors creating workarounds to find officers in policy for engaging in perfectly reasonable, if unwarned, force.</p>

		<p>This phrase also is troublesome: "Members shall not use force against people who engage in passive resistance that does not impede a lawful objective. Physically moving a subject engaged in passive resistance is permitted when it is necessary and objectively reasonable." The problem here is the use of the word "necessary" as it is defined: "No objectively reasonable effective alternative exists to affect a lawful purpose." Consider two scenarios, both of which involve using low levels of force to move someone from one place to another. Officers respond to a bar fight and to use slight physical pressure to move through the crowd to get to the incident. Officers at a shooting scene use a guiding touch (physical coercion) to move the victim's family member away from the crime scene to preserve it. In each of these cases, officers would have to document that their force response was *the only reasonable option.* Again, either officers will be found out of policy for doing perfectly reasonable things or supervisors will resort to "creative writing" to find the otherwise reasonable actions within policy.</p> <p>The Bureau's force scholars may wish to revisit this clause in light of the recent Mendez decision: "Members must not precipitate a use of force by placing themselves or others in jeopardy through actions that are inconsistent with the Bureau's training without a substantial justification for variation from recommended practices."</p> <p>This sentence contradicts the policy statement that requires officers to apply Bureau training principles to the varied situations they encounter: "When striking, members should only use the Bureau-issued baton." Training doctrine has held for years that other implements could be used to strike, most notably a long flashlight. Indeed, many officers that work at night carry larger flashlights because of their potential to be used in the event a striking implement is needed. If this section of the policy is enacted, all sworn members should receive immediate training on the new restrictions on using alternative striking tools.</p> <p>This policy was clearly crafted to satisfy the DOJ and COCL. It was just as clearly not crafted to provide solid guidance to officers who will have to abide by its provisions. I'm quite disappointed.</p>
7/13/17		<p>Immediate written report from involved members, and witness members, and timely communication and provision of information to the victim's family.</p>
7/13/17		<p>DIRECTIVE 1010.10 POST DEADLY FORCE PROCEDURES</p>

We made comments on this Directive in July 2014 and June 2015, so some of these comments are repeats from those times.

Our biggest concern with this Directive is that it upends the US DOJ's repeated assertion that nothing in Bureau policies exempts officers who use deadly force from filling out Force Data Collection Reports or writing police reports prior to the end of their shift, as any officer has to do in any incident. Rather than specify in policy that such reports are necessary, the new draft explicitly says that officers involved in a shooting or other incident that results in death does not have to file such reports, at least not until (weeks or months later) after the criminal case is concluded (Section 2.9.1). In cases of deadly force where nobody dies, Professional Standards has the "discretion" to order a force report to be completed (Section 5.6.1). This flies in the face of community expectations that officers will be held to account as soon as possible after a shooting, particularly after the contract provision allowing them 48 hours before being compelled to testify was removed with great fanfare by City Council last fall. Furthermore, the Directive explicitly states that PSD should not compel the officer to testify until after the District Attorney says the criminal investigation is over (Section 6.3.1). As noted in the AMA Coalition's July 12 news release, which PCW signed onto, the COCL reported in its Q3/Q4 2015 Compliance Report that criminal investigations sometimes do not end until after the completion of the grand jury.

On its face, this makes it seem as if the Bureau is being petty and, instead of moving toward more transparency and accountability, are taking the DOJ's critique of there being no exceptions in the Directive literally and creating an exception. On the other hand, the DOJ and the District Attorney were involved in crafting this Directive, while it has been out of the public eye for over two years.\*4 Since that is the case, it is doubly important that the City not allow the Bureau to adopt this Directive without a full public discussion on its implications.

In general, we also continue to believe (as noted in the comments on 1010) that investigations into police misconduct, especially those involving force/deadly force, should not be conducted by the same police agency involved in the incident, but rather an independent body such as IPR (if it had the power to compel testimony and ability to investigate deadly force). The restrictions being put on the administrative investigations by deferring to the District Attorney in this draft underscore the problem that the DA has only once ever indicted a Portland officer for on-duty use of deadly force (in which the suspect lived, and that officer died by his own hand before the case came to court). The DA has an inherent conflict of interest, being invested in having officers help prosecute crimes. Based on our years of work on this issue and the language of Section 1, we

suspect that the Directive has been written to avoid the possibility that an officer will get off the hook on criminal charges because of "transactional immunity," where a compelled statement taints the criminal investigation. But given the track record here, PCW continues to believe we should push for immediate compelled statements and police reports and revisit the policy if an officer who otherwise would have been criminally charged is released by the DA for that reason. We won't put any money down on it, but we suspect this would result in more officers being held accountable administratively and zero change in what happens at the DA's office.

The last iteration of this Directive did not mention the role of PSD/Internal Affairs, but now PSD is mentioned in Policy Section 3 as conducting a "concurrent" investigation to the criminal one. Given our above concerns, this is clearly a misleading statement meant to appear to comply with the DOJ Agreement, when such an investigation will be held up by lack of interviewing the involved officer. As has been said many times, civilians who kill people do not get to wait 48 hours-- or several weeks, now-- before police try to question them. The difference is that these officers are killing under color of law as part of their job, so compelling their testimony can come over a legal objection to violations of their Fifth Amendment rights against self-incrimination. The catch is that then they can't be prosecuted. But they can be fired. So let's stop pretending here and get the officers' statements right away.

To be clear, not only is the officer not required to fill out a Force Report, but: (a) Homicide Detectives fill out the "General Offense Report" (2.7.1.1), (b) PSD's written report substitutes for the officer's Force Report (2.9.2.2), and (c) no After Action Report is required because PSD's review supposedly serves the same function (2.9.3).

We continue to object, also, to PSD's investigation being referred to as an "Administrative Review" (Policy Section 3, Sections 2.9, 5.5, 5.6, 6, 7 and 8). Let's imagine for an instant that a person who is shot by the police but lives feels the officer violated Bureau policy. That person would under any other circumstance (if the officer Racially Profiled them, called them a name, hit them with a baton, etc) be able to file a complaint that would in serious cases result in an Administrative Investigation and findings. But because the City is playing games and calling this investigation something else, the civilian does not have a chance to (a) assert their concerns about the behavior or (b) file an appeal if the findings are not to their satisfaction. We know this to be true because Lesley Paul Stewart, who was shot in the head by the PPB in 2007 but lived, tried to file a complaint but was unable to. (The father of Keaton Otis also tried to file an appeal unsuccessfully in 2012).

We also said previously that the Directive should not order Detectives to "determine justification for the use of deadly force" (Section 5.4.1). Literally, this means they can never come to the conclusion that the officer was not justified under the policy.

While we are glad to see there has been much clarification about what information involved and witness officers will be expected to share with on-scene investigators (Sections 2.1.2, 2.2.2, 2.3.1.4, and 2.9.2.1&2, for example), it is still significant that no officer has yet undergone the voluntary walk-through of a scene since that practice was instituted over two years ago, and the Directive explicitly states "the member reserves the right to decline the request" (2.1.4).

The Directive contains a very significant contradiction, perhaps the result of a typographical error. Pursuant to our concerns from previous comments (and other community members), the Directive explicitly states that the Bureau should not release information on the criminal history, or the booking photo, of the person subjected to deadly force (Section 9.1). However, Section 9.7 directs the Public Information Officer to release information about "the individual's prior police involvement or criminal record (if applicable)." As we noted in our earlier comments, this taints the public's view of the incident, especially in cases where the officers did not know of the person's criminal record ahead of time. We hope the Directive will be consistent with Section 9.1 and that Section 9.7 will continue the limitation on release of such information. There is nothing ordering or restricting the PIO from releasing information about the officer's past history. This is our way of suggesting that such history should be released if the suspect's history is released, not a suggestion that the Bureau prohibit release of such information. All that's required to be released about the officer is their name and length of service (Sections 9.7.3 and 9.7.4). Section 9.7 says the officer's names should be released within 24 hours, but adds a new exception for a "credible threat." This language echoes a poorly considered piece of legislation that was defeated in the 2016 Oregon legislature and should be removed from the Directive.

For reasons we don't understand, a provision from the last version (old Section 3.5.2.2) saying the Bureau should contact the Department of Justice is gone. We were not sure whether the idea was to contact the state DOJ (which is supposed to be tracking deadly force incidents) or the federal one (which has Portland under scrutiny for excessive force), but suggested both should be notified.

Other things we noticed in this Directive:

Directive 1010.10 – Website comments 6/30/17-7/14/17

		<p>--The definition of "On-Scene Interview" has been cut.</p> <p>--The Section asking that involved members be transported from the scene by another officer is terribly written. seeming as if the involved officer gets to assign his/her own driver (2.1.5.1). Instead this section should refer to the supervisor who is supposed to make the assignment (2.3.1.11).</p> <p>--The Chief was previously required to hold a briefing the day after the deadly force incident, but now only has to do so on "the next business day" after the incident (9.5), meaning a shooting on a Friday may not get explained until a Monday or Tuesday if there is a Monday holiday.</p> <p>We also did not have time to compare this Directive to COAB's recommendations.</p>
7/3/17		<p>The language in the definition of Objectively Reasonable in the definitions section of the directive seems to give undue wiggle room in the decision making process of the officers on the scene. In particular, the sentences noting that "hindsight is 20/20" lends itself to Subjectivity not Objectivity. While it is understood that officers will have to face difficult decisions while on duty, making these decisions under pressure should be part of the officer's training. This excess language in the policy can only serve to confuse what should be a very clear standard.</p>

Directive 1020.00 – Website comments as of 11/30/15, close of Universal Review

Directive	Date	Individual	Comment
1020.00	11/2/15		<p>7.1. Shotguns will be loaded and secured in a locking mount of a vehicle, after ensuring the action is closed on an empty chamber and the safety is in the on position.</p> <p>Every shotgun issued through the Detective Division will be loaded improperly under this Directive. Craft an exception for units using unmarked cars, or ban shotguns from the Detective armory.</p>
1020.00	11/2/15		<p>Regarding 7.1: "Shotguns will be loaded and secured in a locking mount of a vehicle, after ensuring the action is closed on an empty chamber and the safety is in the on position."</p> <p>There are numerous patrol vehicles (Caprice trunk mounts, e.g.) where it is not possible, or so onerous as to be unsafe, to load a shotgun while it is secured in the locking mount.</p> <p>Suggested language "Shotguns will be loaded after ensuring the action is closed on an empty chamber and the safety is in the on position and secured in a locking mount of a vehicle."</p>
1020.00	11/3/15		Acceptable as written
1020.00	11/4/15		<p>Policy Section - Should the part about what the Training Division teaches include instruction on policy as well as skills?</p> <p>1.2.1 - Is this section necessary anymore? This seems to be left over from when the Bureau started issuing weapons and I wonder if attrition has taken care of all the personally owned firearms at this point.</p>
1020.00	11/30/15		We do not believe Carbines should be used or are necessary.

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			<p>Shotguns should be treated like carbines in terms of qualifications and should require further training if a member doesn't pass the first time</p> <p>If a member doesn't qualify on a separate gun, they should be retested on their primary sidearm.</p> <p>Firearms should be stored in a separate location than less lethal weapons</p>
1020.00	11/30/15		<p>This Directive has been substantially rewritten, and removes nearly all Definitions given in the previously posted version.</p> <p>One of our chief concerns about how officers use guns is their ongoing violation of rule #1 of gun safety: Never point a weapon at anyone unless you're prepared to shoot them. Thus, Policy Section 4 is a bit disingenuous when it states that "safety is paramount and members will be held to the strictest of standards."</p> <p>We also would hope that officers attending community meetings would not be required to carry firearms at all times, since the ability of a supervisor to waive the requirement is supposed to be used "rarely" (Section 5.1.1.).</p> <p>Another item of concern is that after the Training Division distributes a "Not Qualified Report" (Section 4.4.3), there is no longer a specific statement that officers on that list "can neither work in an armed capacity, nor have contact with the public." Though this is implied by saying such officers should be assigned to administrative duty (4.3.1.4), the more specific language is more reassuring to community members.</p> <p>There also is no longer a requirement for officers to qualify for shooting capability using their secondary (non-Bureau issued) firearm (former section 1.5.1). Furthermore, there are no details on how the Bureau keeps</p>

			<p>track of such secondary weapons-- do the officers report the serial numbers? Do they turn in an older weapon if they decide to carry a newer secondary sidearm? And, is there a requirement that the weapon be legally registered in the officer's name?</p> <p>In the day and age of so many people being shot holding toy guns, it is odd that the requirement that all Glocks be black in color has been removed (former section 1.6.5).</p> <p>One strange omission is to allow "non-lead bullets" to be used for health reasons-- specifically, they used to be allowed for pregnant officers (former Section 1.9), but given the environmental hazards of lead, one wonders why such ammunition isn't more widely used in training.</p> <p>The Bureau also cut out a prohibition on officers lending out or selling Bureau-issued equipment (former Section 2.9.1). Considering all the detail in this 7-page long Directive, it seems this is a pretty important point to have left out.</p> <p>As noted above, how weapons are supposed to actually be used is de-prioritized, in this case moved down to Section 8, which then only refers officers to Directive 1010.00. However, Section 9 has specific requirements about summoning medical aid-- and at that, directs such action "as soon as practicable," rather than "as soon as possible.</p> <p>It is also very important to note that officers who discharge weapons have write a report by the end of their shift (Section 10.1), which again supports the DOJ's caution against treating deadly force differently than other kinds of police conduct.</p> <p>Other changes are too many to mention, but one last standout is the removal of officers' ability to by their own gun upon retirement, at the same price it cost the Bureau to buy (former Section 2.10.3).</p>
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Directive 1020.00 – Website comments 6/30/17-7/14/17

Date	Individual	Comment
7/14/17		<p>I concur with the critiques of this directive submitted by Portland Copwatch and NAACP.</p> <p>We demand public hearings on proposed policy changes.                      We demand that changes be outlined so that comparisons are easy to make.                      We demand a halt to all such policy reviews before the new police chief is in place.                      We demand that efforts to shield police offers from any and all accountability for the use of force be stopped.</p>
7/14/17		<p>2.1. All sworn members shall carry one Bureau-authorized primary firearm, whether in uniform or in plain-clothes assignments.</p> <p style="padding-left: 40px;">Walk through the Justice Center and you'll find plainclothes members not carrying guns. This portion of the directive needs to be reemphasized.</p> <p>5.4.3. The asp baton is issued as standard equipment to all sworn members. All sworn members in a uniform assignment of the rank of officer and sergeant (other than MPU) shall carry the asp baton in a manner such that the tool is immediately available to use, if necessary.</p> <p style="padding-left: 40px;">It became apparent at in service this year that many are not in compliance with the requirement to carry as described here. This should be reinforced at roll calls and sergeants should verify members are carrying their asps. Sergeants need to carry theirs too. If not it will come out during IA interviews as options for force are discussed and many will have sustained Allegations pertaining to this directive.</p>
7/13/17		<p><b>DIRECTIVE 1020.00 FIREARMS ADMINISTRATION</b></p> <p>We made comments on a previous draft to this Directive in November 2015. Because we had that previous draft, some of these comments are based on the existing Directive and some on what was proposed at that time. We assign any confusion caused by our efforts on the Bureau's practices for rolling out these Directives.</p> <p>Directive 1020.00 has been substantially rewritten. While there are various items which implicitly or explicitly are included for safety reasons, the Bureau seems to consistently ignore rule #1 of gun safety: Never point a weapon at anyone unless you're prepared to shoot them. As with the</p>

previous draft, Policy Section 2 is therefore disingenuous when it states that "safety is paramount and the PPB shall hold its members to the strictest of standards regarding weapon safety."\*5 To put this in context, officers pointed their firearms at people 359 times in 2016, or about one time every single day. Were there really 359 times that there was a substantial risk of injury or death to officers or community members? On that note, we are glad to see Section 1.3 has been added saying "Members shall not unnecessarily brandish any firearm." (It's a little disconcerting that the caveat on another new section, 1.2, says members should not carry a firearm "if they impaired by intoxicants to a noticeable or perceptible degree.")

We're glad to see that exceptions to officers carrying firearms is no longer deemed "rare." However, supervisors are only given the ability to waive firearm requirements "based on investigative needs" (Section 2.1.4) rather than, say, based on the rules of a psychiatric facility, and/or if the officer is attending a community meeting where the firearm might be seen as threatening.

It's of concern that Section 9.1 calls on officers to clean their weapons after discharging them in the official course of duty. It seems that should not happen until after a forensics team has examined it for the criminal and administrative investigations.

As noted above, the suggestion that a second officer should double-check that less-lethal ammunition is properly loaded should be reinserted (old Directive 1050.00 6.1).

We also commend the Bureau for reinstating the requirement that Bureau firearms should be black in color (Section 2.1.3), since, as we noted, so many people are being killed holding toy guns.

The last version did not refer to how officers were supposed to be using firearms in the course of their duties until Section 8; now Policy Section 3 notes that Directive 1010 guides their use.

The new section on Tasers (5.1) has a wise provision for officers to carry the electroshock weapons on their "support-hand" side (5.1.4), perhaps it should more specifically say on the opposite side from a firearm.

The old policy on pepper spray (1040.00) said that only officers assigned to respond to calls were required to carry the weapon (old Section 4.1), but now the Directive says all officers in uniform

Directive 1020.00 – Website comments 6/30/17-7/14/17

		<p>have to carry it (Section 5.2.2).</p> <p>Significantly, Section 10.1 from the previous version of 1020.00, which required officers to document firearm use in an appropriate police report before going off shift, is no longer in this policy (see our comments on 1010.10, above).</p> <p>Many other changes were imported from Directive 1050.00 on Less Lethal Weapons (much of Section 5.3) and 1030.00 on Batons (Section 5.4). We note here that Section 5.4 refers to the Mounted Patrol Unit which, thankfully for the horses and for our fellow Portlanders who've been terrorized by them, has been disbanded.</p> <p>As noted above, we are pleased to see the definition of Specialty Munitions here and in 1021 includes the caveat that such ammunition is not necessarily non-lethal.</p>
7/10/17		<p>3.5 Prohibition on mixing 00 Buck and Slug in the magazine tube. Can I ask the justification for this? We train mixing loads at every firearm qualification.</p> <p>5.3.8.1 Prohibition on carrying Lethal and LL 12ga rounds. This implies a prohibition on carrying both a 12ga lethal shotgun and LL shotgun in the car. Is this the intent?</p>

Date	Individual	Comment
7/13/17		<p><b>DIRECTIVE 1021.00 WEAPONS QUALIFICATIONS</b></p> <p>This is a new Directive that was (wisely) split off from Directive 1020.00, to mostly focus on how officers qualify on various weapons. It also contains portions of 1050.00 (Less Lethal Weapons) and 1051.00 (Tasers). In previous comments, we wondered why Training and Professional Standards are only required to notify the Chief about changes to Taser training or procedures rather than the Chief being included in that discussion; that provision is now in 1021.00 Section 2.9.</p> <p>A section carried over from old Directive 1020.00 says officers who fail to qualify with firearms "can neither work in an armed capacity, nor have contact with the public." Directive 1021 now adds they must re-qualify prior to contact with the public (Section 4.5). Section 1.2.1.3.1 says officers will be assigned to "administrative duties where contact with the public is unlikely." These are improvements from the previous version.</p> <p>Also in the previous version of 1020.00, the requirement for officers to qualify for shooting using their secondary (non-Bureau issued) firearm disappeared, but it is now back as section 1.2.2. We continue to be concerned that the Bureau has to "approve" such a weapon, but there is nothing about tracking serial numbers, how officers dispose of old personal firearms, or even whether the firearm has to be legally registered in the Directive. (Inspection is required by a Certified Instructor in 1020 section 2.4, which doesn't answer these concerns.)</p> <p>We noted previously that pregnant officers were allowed to train using "non-lead bullets," but that provision disappeared. Now the Directive says such officers may forego training "under the advice of their physician" (1.2.7.1) and that nursing mothers can get assistance with "reducing potential lead exposures (eg loading/unloading, weapons maintenance and range cleaning" (1.2.8.2). Yes, bullets are supposed to be deadly (even if we wish they weren't), but they should not contaminate the atmosphere and cause harm. If non-lead alternatives exist, perhaps the Bureau should look into them.</p>

Directive 1030.00 – Website comments as of 11/30/15, close of Universal Review

Directive	Date	Individual	Comment
1030.00	11/3/15		<p>It is simply outrageous that the use of a baton to pry a suspect's arms out from under them should be a reportable use of force. Such action has almost no chance of injury and in fact is a far less intrusive method of gaining compliance on an actively resisting suspect than other forms of force. This is just another example of our over reporting and will not help up in the long run.</p>
1030.00	11/4/15		<p>looks reasonable, fair and pretty clear.</p>
1030.00	11/5/15		<p>The ASP Baton SUCKS for anything other than clearing cob webs or needing to knock on doors really hard and loud!!! Now that everyone is trained and carrying tasers, and we have pepper spray that has shown to be far more effective than our past pepper, I would like to see the wording of the baton directive to read something like, "as long as members are carrying their taser and pepper spray, carrying of the ASP baton is optional."</p> <p>My opinion of the ASP comes from having used it three times in actual fights. Every time I used it in a fight, the thing collapsed. I have spoke to many officers that have had the same thing happen to them. The ASP baton adds a lot of weight to our already heavy duty belts.</p>
1030.00	11/30/15		<p>Subsection 5.2., allowing use of other tools or items as a striking implement, such as a radio or flashlight, should be deleted. Officers are issued batons and other devices can have additional dangers.</p> <p>Section 5 should specify that certain body areas should be avoided, like the head and neck. It should also specify that extra caution should be exercised when using a baton on someone who known to be, or appears to be under the age of twelve, over the age of sixty, mentally ill, pregnant, or medically fragile.</p>

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			<p>Subsection 6.1. should specify when medical attention is necessary or should require medical attention in all cases of baton use. Medical attention should always be required if a baton is used against anyone who was known to be or is later discovered to be under the age of twelve, over the age of sixty, mentally ill, pregnant, or medically fragile.</p>
1030.00	11/30/15		<p>It is curious that in rewriting this Directive, the Bureau has cut out the Policy section governing use of Batons. They also cut out a number of definitions. There is nothing in the Directive that cautions certain uses of the Baton (such as striking a person on the head) can be considered deadly force.</p> <p>A major concern here is carried over from the old Directive, and allows officers to use several other objects (described in the Directive as "tools), including flashlights, as impact weapons; it is only slightly improved by changing the standard of such use from a "reasonable belief" of the officer to the use being "objectively reasonable" (Section 5.2).</p> <p>It's not clear why the requirement for a supervisor to document injuries to suspects was removed, perhaps because Section 6.1 requires the officer who used the baton to contact medical help and document if the person refuses. Regardless, because of the seriousness of the use of force, and because a supervisor is supposed to be on scene investigating, the old requirement should probably stand.</p>

Directive 1040.00 – Website comments as of 11/30/15, close of Universal Review

Directive	Date	Individual	Comment
1040.00	11/2/15		<p>5.2. Pepper spray may be used in passive resistance situations (e.g. crowd management) only when authorized by the Incident Commander.</p> <p>I believe that passive resistance situations are different than crowd management. Further is there not a case on point that forbids aerosol usage in passive resistance cases?</p>
1040.00	11/2/15		Regarding 5.2: I am fairly certain the 9th Circuit Court of Appeals would disagree with the use of pepper spray on a passive resistant crowd, ie. HEADWATERS FOREST DEFENSE v. COUNTY OF HUMBOLDT
1040.00	11/3/15		Acceptable as is
1040.00	11/4/15		<p>2.1 "manufacturer"</p> <p>, I still want to see us add some language of: "Pepper spray will not be used against the operator of a vehicle that is presently capable of being operated due to the risk of them fleeing while incapacitated, without significant and substantial justification."</p>
1040.00	11/4/15		I may be missing it, but I can't find a definition for "passive resistance" in this directive or in 1010.00. It might be a good idea to define it in this directive, or to refer the reader to where the definition is. I have seen civil cases where the plaintiff defines conduct as passive resistance that may or may not be, and it would help to define this term to remove ambiguity or leaving the term open to interpretation.
1040.00	11/30/15		Subsection 6.3. should explain what an adverse reaction is so the member knows when medical attention is needed.
1040.00	11/30/15		Again, this Directive was majorly reworked and had its Policy section yanked. The old policy said that officers not assigned to patrol duties

			<p>would only be issued pepper spray on a discretionary basis; oddly, the new one says only officers assigned to respond to calls are required to carry the weapon (Section 4.1). Neither the old nor new Directive talks about the fact that pepper spray is potentially lethal, a fact underscored when Armor Holdings paid the family of Dickie Dow \$10,000 after his death in 1998 at the hands of the PPB.</p> <p>Having members of our group who've been in crowds that have been indiscriminately pepper sprayed, we are horrified to read Section 5.2 which allows Incident Commanders to authorize its use on people who are passively resisting. (It's not clear, since "Incident Commanders" are only assigned to specific actions such as crowd assignments, whether such broad use is advocated in any other situation.)</p> <p>We also object to the Bureau cutting out the requirement to report the circumstances of pepper spray use and its effects (Section 7.1), and the restriction to only use the spray from four feet away or more (even though that restriction was "to reduce the potential for splash back" and had a loophole for protection of the officer or another person from physical injury).</p> <p>Reference to Directive 1090.00 Special Weapons was also cut, which raises the question why those were not included with all the other weapons Directives under review this month, while Ballistic Shields, which are defensive and not offensive, were included.</p>
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Directive 1050.00 – Website comments as of 11/30/15, close of Universal Review

Directive	Date	Individual	Comment
1050.00	11/1/15		<p>RE: 11.1 As the Central armorer I perform maintenance and repair on all the 870 shotguns. The only repairs I send back to Training are the specialized ones that I don't have the tools to perform at precinct level. 11.1 needs to reflect that precinct armorers also have the authority to make repairs.</p>
1050.00	11/3/15		<p>I think that we are way overdue to allow trained operators (RRT and SERT) to carry and deploy 40mm LL launchers. The 40mm provides far greater range (stand off distance) than the 12 gauge and greater terminal ballistics but with less likelihood of injury than the 12 gauge. I think that the shooting at Portland Adventist a few years ago might have had a different outcome if a 40mm was available due to the engagement range of that incident. Please explore this possibility.</p>
1050.00	11/30/15		<p>We noticed quite a few changes in this Directive as well, starting with swapping out the word "shotgun" and inserting the word "launcher" to describe a "less-lethal" weapon. We hope this means the Bureau is considering making it more difficult to confuse "less lethal" guns and ammunition with standard shotguns, as happened when Officer Dane Reister permanently injured William Monroe. A number of sections point to lessons learned from that 2011 tragedy, some of which were in the previous iteration of the Directive: Policy Section 5 prohibits officers from carrying lethal rounds if they have a less-lethal weapon. Officers are required to inspect each round as they load the weapon, and are encouraged to have a second officer double-check (Section 6.1). Because the previous posted version has no date on it, it is difficult to determine when these measures were added, but Portland Copwatch strongly supports them.</p> <p>However, it is of great concern that the SERT and Rapid Response Teams are not bound to these restrictions (Section 6.1.3).</p> <p>We also support the new requirement for officers to document giving a warning about using a "less lethal" weapon or explain why they did not,</p>

Directive 1050.00 – Website comments as of 11/30/15, close of Universal Review

			<p>but wonder why the suggested warning is "stop or I'll shoot" without being clear the gun is not carrying lethal rounds (Section 7.2). That said, it is commendable that the Definitions still include the statement that munitions are designed to be less than lethal, "yet they are still capable of causing serious injury or death." We wonder, though, why pointing out that "less lethal" is not considered "non lethal" was removed.</p> <p>It is also unfortunate that sections detailing what should go into a report, requiring a supervisor to check on a wounded civilian who is hospitalized, photographing injuries, and explaining why the weapon is used were all cut from the Directive, and should probably be re-inserted.</p> <p>In general, much of this Directive is duplicative of the Firearms Directive and defeats what we thought was one intended purpose of the Directives Project, to make the overall contents more compact and readable.</p>
1050.00	11/30/15		<p>Policy Paragraph 4. should read "Members are required to exercise extreme caution whenever handling less lethal weapons; safety is paramount and members will be held to the strictest of standards."</p> <p>Subsection 3.1. should be specific minimum training standards.</p> <p>Subsection 4.3.3. should require that members who lose certification are re-trained before re-certifying. If they do not pass their recertification, members should be required to take additional training and wait a period of time before taking the test again.</p> <p>Subsection 6.1., last sentence, should read "Certified members are required to visually and physically inspect each specialty impact round during loading and must have another Bureau member view and confirm loading."</p> <p>Section 7 should specifically say when its appropriate to use less lethal</p>

Directive 1050.00 – Website comments as of 11/30/15, close of Universal Review

			<p>weapons and should indicate measures to be taken first. Verbal warnings should be required.</p> <p>Subsection 8.1. should read "Members who apply force with a less lethal weapon must request Emergency Medical Services (EMS) right away."</p> <p>Section10 should require that less lethal weapons be stored in a separate location than lethal weapons.</p>
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Directive 1051.00 – Website comments as of 11/30/15, close of Universal Review

Directive	Date	Individual	Comment
1051.00	11/30/15		<p>We repeat once again that electroshock weapons should not referred to as "control" weapons, and suggest that "Conductive Energy Weapon" is a more neutral and widely used term more generic than "Taser."</p> <p>We also repeat our concern that the Bureau added an exception for using Tasers to threaten or coerce ("to manage conflict"-Section 2.3), and continue to object to the use of the term "Excited Delirium" (Section 4.1), which is not a medically recognized condition. We also still do not understand why Training and Professional Standards are only required to notify the Chief about changes to Taser training or procedures rather than the Chief being included in that discussion (Section 3.2).</p> <p>The Directive adopted in 2014 added a paragraph about not using Tasers against people in mental health crisis (Section 2.2) but (a) implied pain compliance is a legitimate use on other people, and (b) gave exceptions "to avoid a higher level of force." This language, while directly lifted from the Settlement Agreement (Paragraph 68-a), is undefined without a "Levels of Force" chart.</p> <p>Also, we previously asked the Bureau to:</p> <ul style="list-style-type: none"> <li>--Reinstate into the Directive the prohibition on using a Taser against someone engaged in passive resistance;</li> <li>--Make it mandatory for officers to report whether persons subjected to shocks fall under categories protected by the Directive (over 60, under 12, etc.).</li> <li>--Add protection for persons with epilepsy.</li> <li>--Listen to the Community and Police Relations Committee and Citizen Review Committee's recommendations, made years ago, to add "Laser</li> </ul>

			<p>Light Only" back onto Force Data Collection Reports, so the Bureau can track how often Tasers are used in confrontations similarly to "point weapon only" for firearms.</p> <p>--Ensure that the warning given is supposed to be verbal (Section 1.6), and not done by pointing the laser light or "arcing" the Taser.</p> <p>--Define the term "significant danger" when outlining the reason officers can fire stun guns at fleeing suspects, to ensure it meets the Ninth Circuit Court ruling requiring an "active threat" before Tasers can be used.</p> <p>We refer you also to our March 2013 comments on Tasers for more concerns, .</p>
1051.00	11/30/15		<p>Subsections 2.1.1., 2.1.2, 2.1.3, and 2.1.4 should replace "obviously" with "appear to be." For example, 2.1.1 should read "Children who are known to be, or are appear to be under the age of twelve (12)."</p> <p>Subsection 2.2. should be the standards that apply to all people. Tasers should not be used at all for pain compliance. Tasers should not be used on people known or appearing to be mentally ill.</p> <p>Subsection 2.10. should be revised to read "Members will not aim an ECW at the head, face, or to target sensitive areas (e.g. genitalia)."</p> <p>Subsection 4.2 should specify when medical attention is necessary or should require medical attention in all cases of taser use. Medical attention should always be required if a taser is used against anyone who was known to be or is later discovered to be under the age of twelve, over the age of sixty, mentally ill, pregnant, or medically fragile.</p> <p>Subsection 5.3.1. should include how many officers were present and the</p>

Directive 1051.00 – Website comments as of 11/30/15, close of Universal Review

			body area(s) that were hit by the taser, any special characteristics of person, such as pregnancy etc.
1051.00	11/24/15		<p>the language in 1.6 should be changed to say when it's feasible and tactically sound. the current language is too demanding on an officer in the heat of the moment and could easily set them up to violate policy.</p> <p>Also, the language in 4.1 should be eased somewhat so as not to mandate a transport by medical to the hospital unless deemed medically necessary. If medical determines the subject should be transported then do that, otherwise if subject is medically cleared then police can take further action, i.e. transport to jail, JDH, etc.</p>
1051.00	11/03/15		<p>I don't like how this policy is in conflict with the Graham standard. ECW is just another type of force and it's use should be governed by the same rules. Despite the anti-police hype to contrary, ECW has proven to be an effective and safe alternative to more intrusive and potentially harmful types of force. ECW should be treated for the low-level risk it is and not as something just short of deadly force as our detractors want.</p>
1051.00	11/02/15		<p>Regarding procedure 1.1.3 : "To avoid the use of a higher level of force."</p> <p>This is not defined or explained in any bureau training, policy, or procedure, It is interpreted very differently when discussed amongst sworn members. Per an email from Captain Marshman the intent of this statement is to allow the use of taser under conditions where the totality of the circumstances surrounding the incident suggest that the taser is less likely to cause injury. I believe the language should be changed to reflect that interpretation from Captain Marshman in language that is consistent with training policy and procedure.</p>

Directive 1051.00 – Website comments as of 11/30/15, close of Universal Review

			<p>A suggestion is</p> <p>"to avoid force which is more likely to cause injury, or more significant injury, to members, suspects, or the public"</p>
1051.00	3/20/15		<p>sections 1.7 and 1.8 conflict with each other and the term “between cycles” is confusing. These sections currently read as follows:</p> <p>1.7. When it is feasible and tactically sound to do so members will make an effort to handcuff or otherwise control a subject during and between ECW cycles.</p> <p>1.8. After an ECW cycle the member shall reevaluate the situation to determine if subsequent cycles are necessary, including waiting for a reasonable amount of time to allow the subject to comply with the warning. Members shall describe and explain the reasonableness of each ECW cycle in their use of force reports.</p> <p>These provisions are trained as two separate tactical options: 1.7 being = taser, handcuff, taser; while 1.8 is taser, commands/evaluate, taser if necessary.</p>

**Subject: NEWS: PPB to Create "New 48-Hour Rule" for Officer Involved Shootings**

Albina Ministerial Alliance Coalition for Justice and Police Reform  
c/o Maranatha Church  
503-288-7242

Media contact: Dr. T. Allen Bethel, AMA Coalition 503-288-7242  
Dr. LeRoy Haynes, Jr, AMA Coalition 503-288-7242

NEWS ITEM

For Immediate Release July 12, 2017

PPB to Create "New 48-Hour Rule" for Officer Involved Shootings

The Portland Police Bureau (PPB) is poised to take the long-time bothersome "48-Hour Rule," which allowed officers two days before being compelled to testify after a shooting, and extend it by a timeline that could be ten times as long as the stricken rule. Last fall, the 48-Hour Rule was removed from the Portland Police Association contract with much fanfare from the City, while the community demanded more change. On July 1, the PPB posted for comment its draft Use of Force and Post-Deadly Force policies for public review, with the latter allowing officers who cause the deaths of community members to forego writing Force reports or being compelled to testify about the deadly force incident until after the District Attorney's criminal investigation has ended.\*-1 That criminal investigation usually takes at least three weeks,\*-2 or ten times longer than the previously carved-out 48 hours. If the person in question does not die, it is up to the discretion of the Professional Standards Division (PSD) whether the officer has to file a Force report at all.\*-3

The Albina Ministerial Alliance Coalition for Justice and Police Reform strongly objects to these provisions in the new policy. After the AMAC co-signed a July 6 letter authored by Portland Copwatch and other organizations asking for more time to comment on the Force Directives, the Chief essentially dismissed any community objections to the policies.\*-4 In his memo, Chief Marshman rejected the request for more time to comment, noting the District Attorney, US Department of Justice (DOJ), Compliance Officer/Community Liaison and the Bureau had spent nine months hammering out the current draft. Even though they say they considered community comments made previously (in November, 2015, nearly 2 years ago), they do not acknowledge that the review failed to include any community members. Marshman added that "[The] PPB is confident that the proposed revisions to this suite of directives move the Bureau forward and align with best practices and comports with applicable laws," arguing that letting the community have more time to ponder the new policies would make it impossible for the Bureau to train officers in the fall.

The AMAC has no problem with delaying an in-service training to officers if it means getting these policies right. The reason the DOJ was called to Portland in the first place was to address a pattern and practice of excessive force, and the lack of community trust caused by investigations into deadly and excessive force cases. The DOJ noted several times in these last two years that

nothing should prevent an officer from filing a Force Report before going off shift on the day of a deadly force incident. They also promised that administrative investigations (Internal Affairs/PSD) and criminal investigations would happen simultaneously to speed up the process and ensure accountability. Chief Marshman's memo indicates that the DOJ has let the community down by backing down on both of these promises, which are implied as mandatory in the Settlement Agreement.

The AMAC calls on the City Council to use its authority (as it has promised to do with the Body Cameras Directive) to require the Force policies to be subjected to a Council hearing with public input before they are adopted. Otherwise, Portland will be stuck with the "Ten Times 48-Hour Rule" for years to come.

Other signators to the July 6 letter who support this statement include NAACP Portland Branch and Portland Copwatch.

For more information contact Dr. Leroy Haynes, Jr. or Dr. T. Allen Bethel at 503-288-7242.

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\*-1: From proposed Directive 1010.10

<https://www.portlandoregon.gov/police/article/644947>

2.9.1. For use of deadly force resulting in death, the more comprehensive administrative review is intended to capture all information required in a use of force report. Therefore, in those cases, involved members are not required to complete a use of force report until after the criminal investigation concludes.

6.3.1. For deadly force incidents that result in death, PSD shall schedule a compelled interview with the involved member upon receipt of written notification from the DA that all criminal proceedings have concluded.

\*-2 The 3rd/4th Quarter 2015 COCL Compliance Report (p. 58) indicates that a criminal investigation may even continue after the conclusion of the grand jury.

\*-3 also in 1010.10 5.6.1. [Use of Deadly Force (Not Resulting in Death) Reporting.] After consultation with the DA, the PSD Captain shall have the discretion to direct the involved member to complete a use of force report.

\*-4-- Memo from Chief Marshman in response to request for more time to review Directives:

July 10, 2017

Mr. Dan Handelman

E-mail: [Copwatch@portlandcopwatch.org](mailto:Copwatch@portlandcopwatch.org)

Dear Mr. Handelman,

The current versions of Directive 1010.00 and 1010.10 that are currently posted for public comment are the product of nine months of discussions between the Bureau, the DOJ and the COCL (and the Multnomah County District Attorney on 1010.10). All community input that was provided during the first 30 day universal period as well as COAB comments were carefully

considered as we worked our way through these directives.

The Bureau agrees with your statement that Directive 1010.00 is "arguably the single most important Directive to those concerned with police conduct." Revisions to this directive have taken a great deal of time, effort and thoughtful consideration to accomplish. PPB is confident that the proposed revisions to this suite of directives move the Bureau forward and align with best practices and comports with applicable laws.

With that in mind, the Bureau is eager to implement and train members to the new directive as soon as possible. Any extension to the 15 day window which is, of course, a newly established procedure to allow for more community input, would cause us to miss the Fall In-Service training cycle, leaving the Bureau with a delay of several more months at a minimum before the improved force policy could be trained and enacted.

I understand your concern that a significant number of directives have been posted simultaneously recently. However, the timing of much of that is due to the City and DOJ's recently articulated goal of completing the review of all DOJ-related policies by early October. I expect that once that is accomplished, the directives process will become more manageable for all concerned.

Thank you very much for your letter. The Bureau appreciates your work in reviewing our proposed policies.

Sincerely,

MICHAEL W. MARSHMAN

Chief of Police MWM/dh